

WEST VIRGINIA LEGISLATURE

2019 FIRST EXTRAORDINARY SESSION

Originating

House Bill 206

BY DELEGATES ESPINOSA, WDILSON, BIBBY, FOSTER,
HARDY, HOUSEHOLDER, D. JEFFERIES, LITTLE, MALCOLM,
PHILLIPS AND WAXMAN

[Originating in the Select Committee C on Education;

Reported on June 17, 2019]

1 A BILL to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §15-1B-24 of said code; to amend said code by adding
3 thereto a new section, designated §18-2E-12; to amend and reenact §18-5-14, §18-5-16,
4 §18-5-16a, §18-5-18a, §18-5-18b, and §18-5-46 of said code; to amend said code by
5 adding thereto a new section, designated §18-5-48; to amend and reenact §18-5A-2 and
6 §18-5A-3 of said code; to amend said code by adding thereto a new article, designated
7 §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8,
8 §18-5G-9, §18-5G-10, §18-5G-11 and §18-5G-12; to amend and reenact §18-7A-3 of said
9 code as contained in Chapter 89, Acts of the Legislature, Regular Session, 2019; to
10 amend and reenact §18-7B-2 of said code as contained in Chapter 89, Acts of the
11 Legislature, Regular Session, 2019; to amend and reenact §18-8-4 of said code; to amend
12 and reenact §18-9A-2 of said code as contained in Chapter 133, Acts of the Legislature,
13 Regular Session, 2019; to amend and reenact §18-9A-8 and §18-9A-9 of said code; to
14 amend said code by adding thereto a new section, designated §18-9A-19; to amend said
15 code by adding thereto a new section, designated §18-9B-22; to amend and reenact §18-
16 20-5 of said code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a,
17 §18A-4-8a, and §18A-4-10 of said code; to amend and reenact §18C-4-1, §18C-4-2,
18 §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-
19 4A-2, and §18C-4A-3 of said code; and to amend and reenact §29-12-5a of said code, all
20 relating to public education; allowing public charter schools to participate in the Public
21 Employees Insurance Agency insurance program; requiring Governor to expand
22 Mountaineer Challenge Academy at its existing location and to a new location subject to
23 agreement required under federal law; requiring the State Board of Education to
24 implement the Mountain State Digital Literacy Project as a pilot project; modifying
25 requirements for policies to promote school board effectiveness and eliminating
26 requirement for filing and refiling policies with state board; limiting meetings with

improvement councils to those at low performing schools; modifying agenda for meeting; eliminating reporting requirement; requiring county boards to establish attendance zones; replacing existing provisions pertaining to student transfers with requirement for county boards to establish an open enrollment policy; requiring appeal process whereby a parent or guardian can appeal the refusal of a county board to accept the transfer of the student; requiring the county to which a student is transferred include the student in its net enrollment in certain instances; providing that certain transfer provisions do not supersede eligibility requirements for participation in extracurricular activities established by the Secondary School Activities Commission; requiring the West Virginia Department of Education to survey districts to determine where overcrowding is impeding student achievement; increasing percentage of work time school counselors are required to spend in a direct counseling relationship with pupils; providing that the teacher's recommendation is a primary consideration in determining student promotion; removing requirement that an Innovation in Education school have a focus on certain specified areas; removing certain provisions required in an Innovation in Education application and plan; providing county boards instead of the state board the authority to designate schools as Innovation in Education schools; allowing appeals to the State Board of Education certain Innovation in Education-related determinations made by a county board; exempting public charter schools from all statutes and administrative regulations applicable to the state board, a county board, or a school, with exceptions; providing that no elected official can profit from a charter school, with exception; setting forth public charter school requirements and authority; requiring a public charter school be administered by a governing board; allowing a public charter school to enroll any student in the state; requiring randomized and transparent lottery if capacity at a public charter school is insufficient; creating and allowing certain enrollment preferences at a public charter school; requiring a public charter school to submit a student recruitment and retention plan; requiring an applicant to submit an

53 application to an authorizer in order to establish a new public charter school or to convert
54 an existing noncharter public school to a public charter school; setting forth minimum
55 requirements for application for a public charter school; allowing state board, subject to
56 funding, to offer an incentive grant for a public charter school; setting forth duties of the
57 authorizer of a public charter school; establishing process for authorizer's approval or
58 denial of public charter school application; limiting liability of certain persons and entities
59 relating to the operation of a public charter school; requiring each public charter school to
60 remit to its authorizer an oversight fee; requiring a charter contract between the governing
61 board and the authorizer; setting forth requirements for the charter contract; making the
62 authorizer responsible for collecting and reporting to the state board all state-required
63 assessment and achievement data for the public charter school; setting forth requirements
64 pertaining to renewal, nonrenewal, and revoking a charter contract; requiring state board
65 rule establishing the process for renewing or not renewing a charter contract; requiring an
66 authorizer to develop a public charter school closure protocol or protocol for transitioning
67 a charter school to noncharter public school status; allowing a charter applicant or
68 governing board to appeal certain authorizer decisions; setting forth prohibitions for a
69 public charter school; requiring or allowing state board rules pertaining to public charter
70 school funding, clarifying certain requirements, addressing unforeseen circumstances,
71 prohibiting discrimination against employees involved with establishing charter schools,
72 ensuring accountability, allowing the Schools for the Deaf and Blind to apply for
73 authorization, and facilitating the creation of two youth programs modeled after the
74 Mountaineer Challenge Academy; providing for public charter school access to public
75 facilities; setting forth reporting requirements for certain authorizers and the State
76 Superintendent; allowing public charter schools to elect to participate in certain state
77 retirement systems; modifying requirements applicable after certain numbers of
78 unexcused student absences; including professional personnel providing direct social and

79 emotional support services to students and professional personnel addressing chronic
80 absenteeism within the definition of “professional student support personnel”; increasing
81 calculated net enrollment for the purposes of determining a county’s basic foundation
82 program of certain counties with an actual net enrollment of less than 1,400; decreasing
83 the percent of the levy rate used to calculate local share; basing the basic foundation
84 allowance for professional student support personnel on a ratio; increasing the percentage
85 used to calculate each county’s allowance for current expense; requiring that each county
86 board receive its allocated state aid share of the county’s basic foundation program in the
87 form of block grants; requiring the State Superintendent to provide the State Auditor with
88 the required data for use by the searchable budget data website; including public charter
89 schools in the provisions pertaining to an appropriation to serve certain exceptional
90 children; increasing teacher salaries; providing that certain math and special education
91 teachers be considered to have three additional years of experience for the purposes of
92 the salary schedule; removing definition of salary equity among the counties; removing
93 requirement that Department of Education include in its budget request a request for
94 funding sufficient to meet the objective of salary equity; adding to exceptions to
95 requirement that county salary schedules be uniform; permitting a county board of
96 education to base its reductions in force determinations on an individual’s qualifications
97 as defined in county board policy; modifying provisions pertaining to the preferred recall
98 list and posting of position openings; removing requirement for county board to annually
99 make available a list of all professional personnel employed, their areas of certification,
100 and their seniority; providing that all personnel in a public charter school accrue seniority
101 for the purpose of employment in noncharter public schools; increasing salaries for service
102 personnel; increasing leave without cause days from three to four; requiring a bonus for
103 classroom teachers who have not used more than four days of personal leave during the
104 employment term; renaming the Underwood-Smith Teacher Scholarship and Loan

Assistance programs the Underwood-Smith Teaching Scholars Program and the Teacher Education Loan Repayment Program; modifying requirements for Higher Education Policy Commission rules providing for administration of the programs; requiring that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field; continuing the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; requiring each award recipient to be distinguished as an Underwood-Smith Teaching Scholar; establishing uses for moneys in the Underwood-Smith Teaching Scholars Program Fund; providing for continuation of certain terms, conditions, requirements, and agreements; requiring the Vice Chancellor for Administration to appoint a selection panel to select Underwood-Smith Teaching Scholars; modifying eligibility criteria for Underwood-Smith Teaching Scholars; modifying Underwood-Smith Teaching Scholars award agreement requirements; modifying renewal requirements for an Underwood-Smith Teaching Scholars award; modifying conditions under which a recipient is not in violation of the agreement; requiring Underwood-Smith Teaching Scholars award to be used in preparation for becoming a teacher in a critical shortage field in the public schools of this state; increasing the amount of the annual award; requiring as a condition of loan repayment award eligibility an applicant to be currently employed in a public school in this state in a critical teacher shortage field or as a school counselor in a school or geographic area of the state identified as an area of critical need for such field; requiring as a condition of eligibility an applicant to agree to be employed full time for two school years in a critical teacher shortage field or as a school counselor in a school or geographic area of critical need for such field for each year for which a loan repayment assistance award is received; modifying provisions pertaining to the amount of loan assistance and the requirements for eligibility; modifying eligibility requirements for renewal of a loan repayment assistance award; removing accumulated limit on loan repayment awards;

131 increasing minimum Board of Risk and Insurance Management coverage; requiring at
132 least annual written notice of Board of Risk and Insurance Management insurance
133 coverages by county boards to employee insureds; and allowing public charter schools to
134 obtain insurance coverage from the Board of Risk and Insurance Management.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-2. Definitions.

1 The following words and phrases as used in this article, unless a different meaning is
2 clearly indicated by the context, have the following meanings:

3 (1) "Agency" means the Public Employees Insurance Agency created by this article.

4 (2) "Director" means the Director of the Public Employees Insurance Agency created by
5 this article.

6 (3) "Employee" means any person, including an elected officer, who works regularly full-
7 time in the service of the State of West Virginia and, for the purpose of this article only, the term
8 "employee" also means any person, including an elected officer, who works regularly full-time in
9 the service of a county board of education; a public charter school established pursuant to §18-
10 5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant
11 to §18-5G-7 of this code a determination to participate in the Public Employees Insurance
12 program; a county, city, or town in the State; any separate corporation or instrumentality
13 established by one or more counties, cities, or towns, as permitted by law; any corporation or

instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or ~~comprehensive—mental—retardation~~ intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an “employee” during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an “employee” during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay

the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an “employee” if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or ~~comprehensive mental retardation~~ intellectually and developmentally disabled facility established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 et seq. of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an “employer” within the meaning of this article

shall be decided by the director. The term “employer” does not include within its meaning the National Guard.

(5) “Finance board” means the Public Employees Insurance Agency finance board created by this article.

(6) “Person” means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option, or the group life insurance plan offered by the agency.

(8) “Retired employee” means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant

91 to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-
92 employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide
93 benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but
94 may do so only upon the written certification, under oath, of an authorized officer of the employer
95 that the employer has no employees who are, or who are eligible to become, retired employees
96 and that the employer will defend and hold harmless the Public Employees Insurance Agency
97 from any claim by one of the employer's past, present, or future employees for eligibility to
98 participate in the Public Employees Insurance Agency as a retired employee. As a matter of law,
99 the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits
100 to a retired employee of a nonstate employer which has opted out of the West Virginia other post-
101 employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

§5-16-22. Permissive participation; exemptions.

1 The provisions of this article are not mandatory upon any employee or employer who is
2 not an employee of, or is not, the State of West Virginia, its boards, agencies, commissions,
3 departments, institutions or spending units, or a county board of education, and nothing contained
4 in this article compels any employee or employer to enroll in or subscribe to any insurance plan
5 authorized by the provisions of this article: Provided, That nothing in this section requires a public
6 charter school to participate in the Public Employees Insurance Agency program.

7 Those employees enrolled in the insurance program authorized under the provisions of
8 §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or
9 plans authorized by the provisions of this article, and the employees of any department which has
10 an existing insurance program for its employees to which the government of the United States
11 contributes any part or all of the premium or cost of the premium may be exempted from the
12 provisions of this article. Any employee or employer exempted under the provisions of this
13 paragraph may enroll in any insurance program authorized by the provisions of this article at any

time, to the same extent as any other qualified employee or employer, but employee or employer may not remain enrolled in both programs.

Any plan established or administered by the Public Employees Insurance Agency pursuant to this article is exempt from the provisions of chapter 33 of this code unless explicitly stated. Notwithstanding any provision of this code to the contrary, the Public Employees Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter 33 of this code.

Employers, other than the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education, are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the insurance program to notify the director not later than 10 days after the vote.

Any employer, whether the employer participates in the Public Employees Insurance Agency insurance program as a group or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the Public Employees Insurance Agency insurance program as authorized by this article, shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer not mandated to participate in the plan is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an

active employee of the employer for at least five years: *Provided, however,* That those retired employees of an employer not participating in the plan who retire on or after July 1, 2010, who have participated in the plan as active employees of the employer for less than five years are responsible for the entire premium cost for coverage and the Public Employees Insurance Agency shall bill for and collect the entire premium from the retired employees, unless the employer elects to pay the employer share of the premium. Each employer is hereby authorized and required to budget for and make such payments as are required by this section.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1B. NATIONAL GUARD.

§15-1B-24. Mountaineer Challenge Academy; expansion; cooperation of state executive agencies.

(a) Subject to the agreement entered into between the United States Secretary of Defense and the Governor to establish, organize, and administer the Mountaineer Challenge Academy pursuant to 32 U.S.C. § 509, the Governor shall:

(1) Expand the capacity of the Mountaineer Challenge Academy location in Preston County to allow for a total of 600 cadets per year;

(2) Expand the Mountaineer Challenge Academy to a second location in Fayette County;
and

(3) To the extent necessary to accomplish the requirements set forth in this subsection and to maximize the use of federal funds, pursue an amendment to the agreement entered into with the United States Secretary of Defense pursuant to 32 U.S.C. § 509.

(b) The Mountaineer Challenge Academy, operated by the Adjutant General at Camp Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby designated as a special alternative education program as is further provided pursuant to section

§18-2-6 of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

(1) Include the Mountaineer Challenge Academy in the child nutrition program;

(2) Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

(3) Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

(c) Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.

CHAPTER 18. EDUCATION.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-12. Mountain State Digital Literacy Project.

(a) Beginning for the school year 2020-2021, the state board shall implement a pilot project, hereby designated the Mountain State Digital Literacy Project. The state board shall determine the number of schools eligible to participate in the pilot project and may adjust that number on a yearly basis. The state board shall select the schools to participate in the project, but selected schools shall possess varying geographic and demographic characteristics and serve students in grades K-8.

(b) Subject to legislative appropriation for this purpose, schools participating in the project shall be provided with instructional resources for students and teachers that feature an extensive curriculum related to digital literacy, online assessment preparation, and internet safety.

Administrators and teachers at the participating schools shall be provided access to online digital literacy related professional development and support.

(c) The project shall be designed and implemented to compliment and build upon the digital literacy standards and assessments established pursuant to §18-2-12, §18-2E-5(c)(16), and §18-2E-5(d)(5) of this code.

(d) The state board may contract with a third-party to facilitate the project. Any such third-party shall satisfy the following qualifications:

(1) Possesses demonstratable experience facilitating similar digital literacy initiatives with public school systems;

(2) Provides extensive digital literacy content over the internet that may be adapted to age or grade specific users and assessment tools, and integrates with widely used platforms; and

(3) Provides digital literacy-related professional development and support resources for administrators and teachers.

(e) On or before January 1, 2020, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability a report that provides information on the development, structure, and fiscal estimate of the Mountain State Digital Literacy Project.

(f) On or before January 1, 2025, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability an evaluation of the pilot project's impact on the performance and progress of students at the participating schools. The evaluation shall include a recommendation for pilot project continuation, expansion or termination and, if recommended for continuation or expansion, any recommendations for program modifications and utilization of the successful participating schools as demonstration sites to facilitate program expansion.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-14. Policies to promote school board effectiveness.

(a) No later than ~~August 1, 2003,~~ January, 2020, each county board shall adopt ~~and file with the state board copies of policies and summaries of~~ policies that promote school board effectiveness and may modify the policies as necessary. ~~These policies may be modified by the county board as necessary, but shall be refiled with the state board following each modification.~~

The policies shall address the following objectives:

(1) Establishing direct links between the county board and its local school improvement councils and between the county board and its faculty senates for the purpose of enabling the county board to receive information, comments and suggestions directly from the councils and faculty senates regarding the broad guidelines for oversight procedures, standards of accountability and planning for future needs as required by this section. To further development of these linkages, each county board shall:

(A) Meet at least annually with ~~a quorum of members from each~~ the local school improvement council ~~in the district~~ of each school deemed to be low performing under the accountability system established by the state board. The meeting or meetings shall be held at a time and in a manner to be determined by the county board; ~~except, in order to facilitate scheduling, the county board may adopt an alternate procedure allowing it to conduct the required annual meeting with each council in the absence of a quorum of council members if the alternate procedure has received prior approval from the state board and if the school district serves more than twenty thousand students or has more than twelve public schools.~~

~~Nothing in this section prohibits a county board from meeting with representatives of a local school improvement council, but at least one annual meeting shall be held, as specified in this section.~~

~~At any time and with reasonable advance notice, county boards may schedule additional meetings with the council for any low performing school in the district;~~

(B) At least 30 days before ~~an annual~~ a meeting with ~~each~~ the local school improvement council of a school deemed to be low performing, develop and submit to the council an agenda

for the ~~annual~~ meeting which requires the school principal and council chair or a member designated by the chair, to address ~~items designated by the county board from the report created pursuant to this section,~~ the dialogue of its meeting or meetings at which the parents, students, school employees, business partners and other interested parties were given the opportunity to make specific suggestions on how to address issues which are seen to affect the school's academic performance. The principal, council chair or other designated member shall also address any reports by the county superintendent with respect to the school's performance and progress, and any one or more of the following issues as determined by the county board:

(i) School performance;

(ii) Curriculum;

(iii) Status of the school in meeting the ~~unified school~~ school's strategic improvement plan established pursuant to ~~section five, article two-e of this chapter~~ §18-2E-5 of this code; and

(iv) Status of the school in meeting the ~~county~~ relevant parts of the county's strategic improvement plan established pursuant to ~~section five, article two-e of this chapter~~ §18-2E-5 of this code;

(C) Make written requests for information from the local school improvement council throughout the year or hold community forums to receive input from the affected community as the county board considers necessary; and

(D) Nothing in this subdivision prohibits a county board from meeting with and requesting information from representatives of any of its local school improvement councils such times and in such manner determined by the county board.

~~(D) Report details to the state board concerning the meeting or meetings held with councils, as specified in this section. The information shall be provided to the state board at the conclusion of the school year, but no later than September 1, of each year, and shall become an indicator in the performance accreditation process for each county. In order to facilitate~~

~~development of this report, a county board may consult with and request assistance from members of the councils.~~

(2) Providing for the development of direct links between the county board and the community at large allowing for community involvement at regular county board meetings and specifying how the county board will communicate regularly with the public regarding important issues;

(3) Providing for the periodic review of personnel policies of the district in order to determine their effectiveness;

(4) Setting broad guidelines for the school district, including the establishment of specific oversight procedures, the development and implementation of standards of accountability and the development of long-range plans to meet future needs as required by this section; and

(5) Using school-based ~~accreditation~~ accountability and performance data provided by the state board and other available data in county board decision-making to meet the education goals of the state and other goals as the county board may establish.

(b) On or before August 1, of each year, county school boards shall review the policies listed in subsection (a) of this section and may modify these policies as necessary.

§18-5-16. Student transfers; ~~legislative findings~~ definitions; appeals; calculating net enrollment; fees for transfer.

(a) ~~County districts and school attendance.~~ Establishment of attendance zones within counties. — The county board ~~may divide~~ shall establish attendance zones within the county ~~into such districts as are necessary to determine~~ to designate the schools ~~the~~ that its resident students of its county shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board ~~shall be~~ is final.

~~(b) Transfers between counties; legislative findings—~~

~~(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.~~

~~(2) Legislative findings.—Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.~~

~~Therefore the Legislature makes the following findings:~~

~~(A) County lines may impede the effective and efficient delivery of education services;~~

~~(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;~~

~~(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and~~

~~(D) Where counties cannot agree, it is necessary to establish a process to determine when transfers are appropriate.~~

~~(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.~~

~~(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:~~

~~(i) Travel time for the student;~~

~~(ii) Impact on levies or bonds;~~

~~(iii) Other financial impact on the county of residence; and~~

~~(iv) Such other factors as the state superintendent may determine.~~

~~(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.~~

~~(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.~~

~~(D) If a student is transferred on either a full-time or a part-time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.~~

~~(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:~~

~~(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine-a [§§ 18-9A-1 et seq.] of this chapter; and~~

~~(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.~~

~~(c) *Transfers between high schools.* — In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable~~

~~transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

(b) Definitions. – For the purposes of this section, unless a different meaning clearly appears from the context:

“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) Enrollment policies. – County boards shall establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

88 (E) Students who reside in a portion of a county where topography, impassable roads,
89 long bus rides, or other conditions prevent the practicable transportation of the student to a school
90 within the county, and a school within a contiguous county is more easily accessible.

91 (2) A county must comply with all enrollment requirements for children who are in foster
92 care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento
93 Homeless Assistance Act (42 U.S.C. § 11434a(6)).

94 (3) The county board for the county educating the nonresident student may provide an
95 adequate means of transportation to nonresident students when students have complied with the
96 procedure for obtaining authorization to attend school outside their county of residence, subject
97 to the following:

98 (A) County boards of education are not required to uniformly provide nonresident student
99 transportation, and may consider whether a nonresident student meets the eligibility criteria for
100 free or reduced price lunch and milk established within the Richard B. Russell National School
101 Lunch Act (42 U.S.C. § 1758); and

102 (B) The county board for the county educating the nonresident student shall provide
103 transportation to and from the school of attendance, or to and from an agreed pickup point on a
104 regular transportation route, or for the total miles traveled each day for the nonresident student to
105 reach the school of enrollment if the nonresident student is a student with disabilities and has an
106 individualized education program that specifies that transportation is necessary for fulfillment of
107 the program.

108 (d) Appeal. – The state board of education shall establish a process whereby a parent or
109 guardian of a student may appeal the refusal of a county board to accept the transfer of the
110 student. If during the appeal process, the State Superintendent discovers that the education and
111 the welfare of the student could be enhanced, the State Superintended may direct that the student
112 may be permitted to attend a school in the receiving county.

113 (e) Net enrollment. — For purposes of net enrollment as defined in §18-9A-2 of this code,
114 whenever a student is transferred on a full-time basis from one school district to another district
115 pursuant to the provisions of this section, the county to which the student is transferred shall
116 include the student in its net enrollment: *Provided*, That if, after transferring to another county, a
117 student chooses to return to a school in his or her county of residence after the second month of
118 any school year, the following applies:

119 (1) The county of residence may issue an invoice to the county from which the student
120 transferred for the amount, determined on a pro rata basis, that the county of residence otherwise
121 would have received under the state basic foundation program established in §18-9A-1 *et seq.* of
122 this code; and

123 (2) The county from which the student transferred shall reimburse the county of residence
124 for the amount of the invoice.

125 ~~(d)~~ (f) Transfers between states. — Transfer of students from this state to another state
126 shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the
127 board of the ~~transferring~~ receiving county and the authorities of the school ~~to~~ or district from which
128 the transfer is made.

129 ~~(e)~~ (g) No parent, guardian, or person acting as parent or guardian ~~shall be~~ is required to
130 pay for the transfer of a student or for the tuition of the student after the transfer when ~~such~~ the
131 transfer is carried out under the terms of this section.

132 (h) Nothing in this section supersedes the eligibility requirements for participation in extra-
133 curricular activities established by the Secondary Schools Activities Commission.

134 (i) The amendments to this section during the 2019 First Extraordinary Session of the
135 Legislature shall be effective for school years beginning on or after July 1, 2020, and the
136 provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the
137 Legislature remain in effect for school years beginning prior to July 1, 2020.

§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.

1 (a) The provisions of this section expire effective July 1, 2020: *Provided*, That any
2 agreement made pursuant to this section prior to July 1, 2020, shall remain in effect.

3 (b) Whenever, in the opinion of the board of education of any county, the education and
4 welfare of a pupil will be enhanced, the board of education of such county shall have the authority
5 to transfer any such pupil or pupils on a part-time or full-time basis from one school district to
6 another school district within the state: *Provided*, That the boards of education of both the
7 transferor and the transferee districts agree to the same by official action of both boards as
8 reflected in the minutes of their respective meetings.

9 (c) Any pupil attending a school in a district of this state adjacent to the district of residence
10 during the school year 1984-1985, is authorized to continue such attendance in the adjacent
11 district, and, upon written request therefor by the parent or guardian, any person who is entitled
12 to attend the public schools of this state and who resides in the same household and is a member
13 of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor
14 and transferee school districts shall effectuate any transfer herein authorized in accordance with
15 the provisions of this section.

16 (d) Whenever a pupil is transferred from one school district to another district on a full-
17 time or part-time basis, the board of education of the school district in which the pupil is a bona
18 fide resident shall pay to the board of education of the school district to which the pupil is
19 transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall
20 not exceed the difference between the state aid per pupil received by the county to which the
21 pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

22 (e) For purposes of net enrollment as defined in §18-9A-2 of this code: (1) Whenever a
23 pupil is transferred on a full-time basis from one school district to another district pursuant to the
24 provisions of this section, the county to which the pupil is transferred shall include such pupil in

its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

§18-5-18a. Maximum teacher-pupil ratio.

(a) County boards of education shall provide ~~by the school year 1983-84, and thereafter,~~ sufficient personnel, equipment, and facilities as will ensure that each first ~~and second~~ through sixth grade classroom, or classrooms having two or more grades that include ~~either the first or second~~ one or more of the first through sixth grades shall not have more than 25 pupils for each teacher of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session, unless the state superintendent has excepted a specific classroom upon application therefor by a county board.

~~County boards shall provide by the school year 1984-85, and continue thereafter, sufficient personnel, equipment and facilities as will ensure that each third, fourth, fifth and sixth grade classroom, or classrooms having two or more grades that include one or more of the third, fourth, fifth and sixth grades, shall not have more than twenty-five pupils for each teacher of the grade or grades.~~

(b) ~~Beginning with the school year 1986-87, and thereafter, no county shall~~ County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983. ~~Provided, That for the prior school years, and only if there is insufficient classroom space available in the school or county, a county may maintain one hundred ten percent of such number of classrooms.~~

(c) ~~During the school year 1984-85, and thereafter, the~~ The state superintendent is authorized, consistent with sound educational policy, (a) to:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; ~~and (b) to~~

23 (2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25
24 pupils per teacher in a specific classroom in grades ~~one~~ four through six during a school year in
25 the event of extraordinary circumstances as determined by the state superintendent after
26 application by a county board of education.

27 (d) The state board shall establish guidelines for the exceptions authorized in this section,
28 but in no event shall the superintendent except classrooms having more than three pupils above
29 the pupil-teacher ratio as set forth in this section.

30 (e) The requirement for approval of an exception to exceed the 20 pupils per kindergarten
31 teacher per session limit or the 25 pupils per teacher limit in grades one through six is waived in
32 schools where the schoolwide pupil-teacher ratio is 25 or less in grades one through six: *Provided,*
33 That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in
34 this section. Any kindergarten teacher who has more than 20 pupils per session and any
35 classroom teacher of grades one through six who has more than 25 pupils, shall be paid additional
36 compensation based on the affected classroom teacher's average daily salary divided by 20 for
37 kindergarten teachers, or 25 for teachers of grades one through six, for every day times the
38 number of additional pupils enrolled up to the maximum pupils permitted in the teacher's
39 classroom. All such additional compensation shall be paid from county funds exclusively.

40 Notwithstanding any other provision of this section to the contrary, commencing with the
41 school year beginning on July 1, 1994, a teacher in grades one, two or three or classrooms having
42 two or more such grade levels, shall not have more than two pupils above the teacher/pupil ratio
43 as set forth in this section: *Provided,* That commencing with the school year beginning on July 1,
44 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth
45 in this section: *Provided, however,* That commencing with the school year beginning on July 1,
46 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this
47 section.

(f) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band or orchestra music.

(g) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

(h) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

(i) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas.

§18-5-18b. School counselors in public schools.

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18A-1-1 of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American School Counselor Association ~~school counselor association~~. A school

counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least ~~seventy-five~~ 80 percent of work time in a direct counseling relationship with pupils, and shall devote no more than ~~one-fourth~~ 20 percent of the work day to administrative activities: *Provided*, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating to promotion.

(a) No teacher may be required by a principal or any other person to change a student's grade on either an individual assignment or a report card unless there is clear and convincing evidence that there was a mathematical error in calculating the student's grade.

(b) The teacher's recommendation relating to whether a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

§18-5-48. County board exceptional needs expenditures from surplus funds.

Each county board may by policy establish an exceptional needs fund from surpluses for students who are likely to perform better outside of the public school setting. The policy may include:

(1) Allowing the county board to use excess funds or donated funds for expenditures related to services and materials necessary for that student's educational success that are not met within the public education school district;

(2) The amount of funds that is to be deposited into the fund each year which may vary based on availability of surpluses;

(3) The qualifying expenses that funds in the fund may be used for;

(4) Measures for protecting against improper use of the funds which may include auditing all expenditures related to an individual student for services outside of the public education district;

(5) The conditions under which payments from the Exceptional Needs Success Fund are to cease;

(6) Eligibility requirements for education service providers that can accept payments from the fund;

(7) A requirement that any overpayments recaptured from refunded expenditures revert to the Exceptional Student Success Fund; and

(8) Any other provision the county board determines appropriate.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-2. Local school improvement councils; election and appointment of members and officers; meetings; required meetings with county board; assistance from state board.

(a) A local school improvement council shall be established at every school consisting of the following:

(1) The principal, who serves as an ex officio member of the council and is entitled to vote;

(2) Three teachers elected by the faculty senate of the school;

(3) Two service persons elected by the service personnel employed at the school, one of whom shall be a ~~one~~ bus operator who transports students enrolled at the school; ~~and one school service person, each elected by the school service personnel employed at the school;~~

(4) Three parent(s), guardian(s) or custodian(s) of students enrolled at the school elected by the parent(s), guardian(s) or custodian(s) members of the school's parent teacher organization. If there is no parent teacher organization, the parent(s), guardian(s) or custodian(s) members shall be elected by the parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may be determined by the principal. Under no circumstances may a parent member of the council be then employed at that school in any capacity;

(5) ~~Two~~ Three at-large members appointed by the principal, at least one of whom resides in the school's attendance area, and at least one of whom represents business or industry, neither of whom is are eligible for any local school improvement council membership under any of the other elected classes of members;

(6) In the case of vocational-technical schools, comprehensive middle schools and comprehensive high schools, the vocational director or principal, as applicable. ~~If there is no vocational director, then the principal may appoint no more than two additional representatives, one of whom represents business and one of whom represents industry~~ shall appoint up to four additional members from any one or more of the following categories: Employer; employer sponsored training program; apprenticeship program; and post-secondary education; and

(7) In the case of a school with students in grade seven or higher, the student body president or other student in grade seven or higher elected by the student body in those grades.

~~(b) Under no circumstances may more than one parent member of the council be then employed at that school in any capacity.~~

~~(c)~~ (b) The principal shall arrange for ~~such elections~~ the election of members to the local school improvement council to be held prior to September 15, of each school year to elect a council and shall give notice of the elections at least one week prior to the elections being held.

To the extent practicable, all elections to select council members shall be held within the same week.

~~(d)~~ (c) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the council shall serve a two-year term and elections shall be arranged in such a manner that no more than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one service person are elected in a given year. All other nonex officio members shall serve one-year terms.

~~(e)~~ (d) Council members may only be replaced upon death, resignation, failure to appear at three consecutive meetings of the council for which notice was given, or a change in personal circumstances so that the person is no longer representative of the class of members from which appointed. In the case of a vacancy in an elected position, the chair of the council shall appoint another qualified person to serve the unexpired term of the person being replaced or, in the case of an appointed member of the council, the principal shall appoint a replacement as soon as practicable.

~~(f)~~ (e) As soon as practicable after the election of council members, and no later than October 1, of each school year, the principal shall convene an organizational meeting of the school improvement council. The principal shall notify each member ~~in writing~~ by written or electronic means at least ~~two~~ five-employment days in advance of the organizational meeting. At this meeting, the principal shall provide each member with the following:

(1) A copy of the current applicable sections of this code;

(2) Any state board rule or regulation promulgated pursuant to the operation of these councils; and

(3) Any information as may be developed by the Department of Education on the operation and powers of local school improvement councils and their important role in improving student and school performance and progress.

56 ~~(g)~~ (f) The council shall elect from its membership a chair and two members to assist the
57 chair in setting the agenda for each council meeting. The chair shall serve a term of one year.
58 ~~and a person may not serve as chair for more than two consecutive terms.~~ If the chair's position
59 becomes vacant for any reason, the principal shall call a meeting of the council to elect another
60 qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying
61 each member of the school improvement council in writing ~~two~~ five employment days in advance
62 of any council meeting.

63 ~~(h)~~ (g) School improvement councils shall meet at least once every nine weeks or
64 equivalent grading period at the call of the chair or by the petition of three fourths of its members.
65 The principal shall notify each member by written or electronic means at least five-employment
66 days in advance of the organizational meeting.

67 ~~(1) The school improvement council shall schedule any meeting that involves the issue of~~
68 ~~student discipline pursuant to subdivision (2), subsection (l) of this section, outside the regularly~~
69 ~~scheduled working hours of any school employee member of the council.~~

70 ~~(2)~~ (h) The school improvement council annually shall conduct a at least one meeting to
71 engage parents, students, school employees, business partners and other interested parties in a
72 positive and interactive dialogue regarding ~~effective discipline policies.~~ The meeting shall afford
73 ample time for the dialogue and comply with any applicable provision of state, federal or county
74 board policy, rule or law, as appropriate, regarding student privacy rights the school's academic
75 performance and standing as determined by measures adopted by the state board. The dialogue
76 shall include an opportunity for the parents, students, school employees, business partners and
77 other interested parties to make specific suggestions on how to address issues which are seen
78 to affect the school's academic performance which may include, but not limited to, parent and
79 community involvement, the learning environment, student engagement, attendance, supports for

80 at-risk students, curricular offerings, resources and the capacity for school improvement. The
81 council shall announce any such meeting ten employment days in advance.

82 (i) The local school improvement council of each school deemed to be low performing
83 under the accountability system established by the state board shall meet at least annually with
84 the county board. ~~in accordance with the provisions in section fourteen, article five of this chapter.~~
85 At ~~this annual~~ any such meeting, the principal and local school improvement council chair, or
86 another member designated by the chair, shall be prepared to address the dialogue at its meeting
87 or meetings to give the parents, students, school employees, business partners and other
88 interested parties an opportunity to make specific suggestions on how to address issues which
89 are seen to affect the school's academic performance and any other matters as may be requested
90 by the county board as specified in the meeting agenda provided to the council and may further
91 provide any other information, comments or suggestions the local school improvement council
92 wishes to bring to the county board's attention. Anything presented under this subsection shall be
93 submitted to the county board in writing.

94 (j) Local school improvement councils shall be considered for the receipt of school of
95 excellence awards ~~under section three of this article~~ and competitive grant awards ~~under section~~
96 ~~twenty-nine, article two of this chapter~~ and may receive and expend such grants for the purposes
97 provided. ~~in such section.~~ Local school improvement councils may propose alternatives to the
98 operation of the school in accordance with §18-5A-3 of this code and may include in the proposal
99 a request for a waiver of rules and policies of the county board and state board, state
100 superintendent interpretations, and state statutes in necessary to implement the proposal.

101 (k) In any and all matters which may fall within the scope of both the school improvement
102 councils and the school curriculum teams authorized in section five of this article, the school
103 curriculum teams have jurisdiction.

~~(k)~~ (l) In order to promote innovations and improvements in the environment for teaching and learning at the school, a school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

(1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's educational process and in the school;

(2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child's education;

(3) Encourage advice and suggestions from the business community;

(4) Encourage school volunteer programs and mentorship programs; and

(5) Foster utilization of the school facilities and grounds for public community activities;

(6) Encourage students to adopt safe and healthy lifestyles; and

(7) Communicate to students the common skills and attributes sought by employers in prospective employees.

~~(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:~~

~~(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:~~

~~(A) A system to provide for effective communication and coordination between school and local emergency services agencies;~~

~~(B) A preventive discipline program which may include the responsible students program devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and~~

~~(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and~~

~~(2) The local school improvement council's findings regarding its examination of the following, which also shall be reported to the county superintendent:~~

~~(A) Disciplinary measures at the school; and~~

~~(B) The fairness and consistency of disciplinary actions at the school. If the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing, along with supporting information, to the county superintendent. Within ten days of receiving the report, the superintendent, or designee, shall respond in writing to the council. The county board shall retain and file all such correspondence and maintain it for public review.~~

~~(C) Any report or communication made as required by this subdivision shall comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.~~

~~(m) The council may include in its report to the county-wide council on productive and safe schools provisions of the state Board of Education policy 4373, student code of conduct, or any expansion of such policy which increases the safety of students in schools in this state and is consistent with the policies and other laws of this state.~~

~~(n)~~ (m) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state, the policies of the West Virginia Board of Education or the policies of the county board.

~~(e)~~ (n) The State Board of Education shall provide assistance to a local school improvement council upon receipt of a reasonable request for that assistance. The state board also may solicit proposals from other parties or entities to provide orientation training for local school improvement council members and may enter into contracts or agreements for that purpose. Any training for members shall meet the guidelines established by the state board.

§18-5A-3. Authority and procedures for local school improvement councils to request waivers of certain rules, policies, ~~and~~ interpretations and statutes.

(a) The intent of this section is to establish a mechanism which allows local school level initiatives to be designed and implemented to meet local school needs and circumstances. In accordance with this intent, a local school improvement council established under the provisions of ~~this article~~ §18-5A-2 of this code may propose alternatives to the operation of the public school which alternatives will meet or exceed the high quality standards established by the state board and will increase administrative efficiency, enhance the delivery of instructional programs, promote student engagement in the learning process, promote business partnerships, promote parent and community involvement at the school in the local school system or any other alternatives that will improve the educational performance of the school generally. For an alternative to be proposed, at least two thirds of the members of the local school improvement council must vote in favor of the proposal.

~~(b) The proposal of the council~~ An alternative proposed by a local school improvement council shall set forth:

14 (1) The objective or objectives to be accomplished under the proposal;

15 (2) How the accomplishment of such objective or objectives will meet or exceed the
16 standards established by the state board;

17 (3) The indicators upon which the meeting of such standards should be judged; and

18 (4) A projection of any funds to be saved by the proposal and how such funds will be
19 reallocated within the school, or any costs associated with the proposal and proposed funding
20 sources;

21 ~~(5) The alternatives proposed by the council may include matters which require the waiver~~
22 ~~of Any policies or rules promulgated by the state or county board, and any state superintendent~~
23 ~~interpretations and any state statutes for which a waiver will be required for the proposed~~
24 ~~alternative to be implemented; and Provided, That such request for waiver be submitted to the~~
25 ~~appropriate board adopting said rule or policy and that board may approve the waiver.~~

26 (6) If the alternative to be proposed includes the request for a waiver of policies or rules
27 promulgated by the state or county board, state superintendent interpretations or state statutes
28 affecting employees, then prior to the proposal of the alternative, a majority of the local affected
29 employee group must agree.

30 (c) A local school improvement council shall submit its proposed alternative to the county
31 board. The county board shall acknowledge receipt of the proposal and promptly review the
32 proposed alternative. The county board may request additional information and clarifications from
33 the local school improvement council regarding the proposed alternative. The county board shall
34 approve or disapprove the proposal and return it to the council with a statement of the reasons
35 for the action taken, subject to the following:

36 (1) If an alternative proposed by the local school improvement council requires the waiver
37 of any policies or rules promulgated by the county board, approval of the proposal by the county
38 board constitutes a grant of the waiver;

39 (2) If an alternative proposed by the local school improvement council requires the waiver
40 of any policies or rules promulgated by the state board and the county board approves the
41 proposal except that a waiver by the state board is required, the county board shall forward the
42 approved proposal to the state board for final determination. The state board shall acknowledge
43 receipt of the proposal and promptly review the proposed alternative in consultation with the
44 county board or their agents and, in its discretion, approve implementation of the alternative or
45 reply to the county board and council within a reasonable time as to its reasons for not approving
46 the proposed alternative. Approval of the proposal by the state board constitutes a grant of the
47 waiver;

48 (3) If an alternative proposed by the local school improvement council requires the waiver
49 of a state superintendent's interpretation and the county board county approves the proposal
50 except that a waiver by the state superintendent is required, the county board shall forward the
51 approved proposal to the state superintendent for final determination. The state superintendent
52 shall acknowledge receipt of the proposal and promptly review the proposed alternative in
53 consultation with the county board or their agents and, in his or her discretion, approve
54 implementation of the alternative or reply to the county board and council within a reasonable
55 time as to its reasons for not approving the proposed alternative. Approval of the proposal by the
56 state superintendent constitutes a grant of the waiver;

57 (4) If an alternative proposed by the local school improvement council requires the waiver
58 of a state statute and the county board county approves the proposal except that a waiver of the
59 statute is required, the county board shall forward the approved proposal to the Legislative
60 Oversight Commission on Education Accountability. The commission shall acknowledge receipt
61 of the proposal and promptly review the proposed alternative in consultation with the county board
62 or their agents and determine whether a recommendation should be made for an Act of the
63 Legislature to waive the statute to permit implementation of the proposed alternative;

64 (5) If an alternative that requires a waiver is proposed by more than one local school
65 improvement council in the county and the county board approves, the county board may forward
66 a consolidated proposal requesting the waiver to the appropriate bodies as provided in this
67 subsection; and

68 (6) When an alternative to the operation of a school is approved, the county board shall
69 establish a process for evaluation of the operation of the alternative. Approval for the operation of
70 the alternative may be continued or revoked at any time based on the results and findings of the
71 evaluation.

72 ~~When a county board does not act within two months after receiving a request for waiver of a~~
73 ~~county board policy or rule or disapproves such a request, the local school improvement council~~
74 ~~may seek an advisory opinion from the state board regarding the waiver request. The county~~
75 ~~board shall furnish the state board with copies of all waiver requests together with their response~~
76 ~~thereto. *Provided, however,* That when a local school improvement council votes to waive a state~~
77 ~~superintendent's interpretation, the state superintendent need only be notified that the local~~
78 ~~council intends to waive the state superintendent's interpretation: *Provided further,* That~~
79 ~~notwithstanding any other provisions of the law to the contrary, council is not prohibited from~~
80 ~~permitting off-site classrooms to be developed in conjunction with local businesses if those sites~~
81 ~~have met the requirements established by the local board and if sites are located off campus. For~~
82 ~~an alternative to be proposed, at least two thirds of the members must vote in favor thereof: *And*~~
83 ~~*provided further,* That if the alternative to be proposed relates to a waiver of policies or rules~~
84 ~~promulgated by the state or county board and state superintendent interpretations affecting~~
85 ~~employees, then prior to the proposal of the alternative, a majority of the local affected employee~~
86 ~~group involved must agree.~~

87 ~~A council may also submit a written statement, with supporting reasons, to the Legislative~~
88 ~~Oversight commission on education accountability recommending a waiver of a statute or~~

~~legislative rule, which the commission shall review and determine whether a recommendation should be made to the Legislature to waive such statute or rule.~~

~~When a council decides to propose an alternative, it shall forward a copy of the proposal to the state board and the affected local board. The state board shall acknowledge receipt of the proposed alternative, promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the council within a reasonable time as to its reasons for not approving the proposed alternative. If the state board approves a proposed alternative, the state board shall provide appropriate notice to the local school improvement council and the county board and shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.~~

(d) Notwithstanding any other provisions of the law to the contrary, a local school improvement council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites have met the requirements established by the local board and if sites are located off campus.

(e) The state board shall submit a report to the Legislative Oversight commission on education accountability and the Governor on September 1, of each year summarizing the proposed alternatives received, approved or rejected, continued or revoked during the preceding school year and the results and findings of the evaluations. The report shall specifically identify all policy, rule, and interpretation waiver requests including those requests made to county boards by local school improvement councils received during the preceding year and the disposition of each.

ARTICLE 5G. PUBLIC CHARTER SCHOOLS.

§18-5G-1. Legislative purpose and intent.

1 (a) The purpose of this article is to establish a process for the creation, governance and
2 oversight accountability of public charter schools with a renewed the commitment to the mission,
3 goals, and diversity of public education that benefits students, parents, teachers, and community
4 members.

5 (b) Public charter schools are intended to empower new, innovative, and more flexible
6 ways of educating all children within the public school system to:

7 (1) Improve student learning by creating more diverse public schools with high standards
8 for student performance;

9 (2) Allow innovative educational methods, practices and programs that engage students
10 in the learning process, thus resulting in higher student achievement;

11 (3) Enable schools to establish a distinctive school curriculum, a specialized academic or
12 technical theme, or method of instruction;

13 (4) Provide expanded opportunities within the public schools for parents to choose among
14 the school curricula, specialized academic or technical themes, and methods of instruction that
15 best serve the interests or needs of their child;

16 (5) Provide students, parents, community members, and local entities with expanded
17 opportunities for involvement in the public school system;

18 (6) Allow authorized public schools and programs within public schools exceptional levels
19 of self-direction and flexibility in exchange for exceptional levels of results-driven accountability
20 for student learning; and

21 (7) Encourage the replication of successful strategies for improving student learning.

22 (c) All public charter schools established under this article are public schools and are part
23 of the state's public education system.

24 (d) The provisions of this article shall be interpreted liberally to support the purpose and
25 intent of this section and to advance a renewed commitment by the state to the mission, goals
26 and diversity of public education.

(e) No provision of this article may be interpreted to allow the conversion of private schools into public charter schools.

(f) An elected official may not profit or receive any monetary consideration from a charter school: *Provided*, That this prohibition does not apply with respect to the continued employment of an elected official who was employed by a public school prior to its conversion to a public charter school.

(g) The total number of public charter schools authorized and in operation under an approved contract at any time in this state shall not exceed 10 public charter schools.

§18-5G-2. Definitions.

The following words used in this article and any proceedings pursuant thereto have the following meanings unless the context clearly indicates a different meaning:

(1) “Applicant” means any one or more in combination of parents, community members, teachers, school administrators, or institutions of higher education in this state who are interested in organizing a public charter school and:

(A) Have obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status; and

(B) Have developed and submitted an application to an authorizer to establish a public charter school;

(2) “Authorizer” means the entity empowered under this article to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts. Authorizers include:

(A) A county school board when the charter school or application to form a charter school includes a primary recruitment area that is wholly within the county over which the board has jurisdiction;

17 (B) Two or more county school boards when the charter school or application to form a
18 charter school includes a primary recruitment area that encompasses territory in the two or more
19 counties over which the respective boards have jurisdiction; or

20 (C) The West Virginia Board of Education in the following instances:

21 (i) The charter school or application to form a charter school or to renew a charter contract
22 is in a county where the state board has intervened in the operation of the school system and
23 limited the authority of the county board to act pursuant to §18-2E-5 of this code; and

24 (ii) The application to form a public charter school or to renew a charter contract is
25 approved by the affected county board or boards and is forwarded it to the West Virginia Board
26 of Education with a request that it perform to the authorizer function.

27 (3) "Charter application" means a proposal from an applicant to an authorizer to enter into
28 a charter contract whereby the proposed school obtains public charter school status;

29 (4) "Charter contract" or "contract" means a fixed-term, renewable contract between a
30 public charter school's governing board and an authorizer that identifies the roles, powers,
31 responsibilities, operational duties, accountability, and performance expectations for each party
32 to the contract, consistent with the requirements of this article;

33 (5) "Conversion public charter school" means a public charter school that existed as a
34 noncharter public school before becoming a public charter school;

35 (6) "County board" means a board exercising management and control of a school district.
36 A county board's management and control of a public charter school is limited to only that granted
37 under this article. In the case of a school district in which the state board has intervened and
38 limited the authority of the county board to act pursuant to §18-2E-5 of this code, "county board"
39 means the state board. In the case of a multicounty vocational or technical center, "county board"
40 means the administrative council of the multicounty center;

41 (7) "Education service provider" means an education management organization, school
42 design provider, or any other partner entity with which a public charter school contracts for
43 educational design, implementation, or comprehensive management;

44 (8) "Governing board" means a public charter school governing board that meets the
45 requirements §18-5G-3 and §18-5G-7 of this code and is party to the charter contract with the
46 authorizer;

47 (9) "Noncharter public school" means a public school or multicounty vocational center
48 other than a public charter school established pursuant to this article;

49 (10) "Parent" means a parent, guardian, or other person or entity having legal custody
50 over a child;

51 (11) "Public charter school" means a public school or program within a public school that
52 is authorized in accordance with the provisions of this article and meets the general criteria,
53 governance structure and statutory compliance requirements described in §18-5G-3 of this code,
54 and other provisions of this article;

55 (12) "Program conversion public charter school" means a program within an existing
56 noncharter public school that is either preexisting and converted or newly created to become a
57 separate and discreet program governed and operated in accordance with this article within the
58 noncharter public school;

59 (13) "Start-up public charter school" means a public charter school that did not exist as a
60 noncharter public school prior to becoming a public charter school.

61 (14) "State board" means the West Virginia Board of Education; and

62 (15) "Student" means any person that is eligible for attendance in a public school in West
63 Virginia.

§18-5G-3. Public charter school criteria, governance structure and statutory compliance
requirements; applicable federal and state laws.

1 (a) Public charter schools authorized pursuant to this article shall meet the following
2 general criteria:

3 (1) Are part of the state's system of public schools and are subject to general supervision
4 by the West Virginia Board of Education for meeting the student performance standards required
5 of other public school students under §18-2E-5(d) and (e) of this code;

6 (2) Are subject to the oversight of the school's authorizer for operating in accordance with
7 its approved charter contract and for meeting the terms and performance standards established
8 in the charter contract;

9 (3) Are not home school-based;

10 (4) Are not affiliated with or espouse any specific religious denomination, organization,
11 sect, or belief and do not promote or engage in any religious practices in their educational
12 program, admissions, employment policies, or operations;

13 (5) Are not affiliated with any organized group whose espoused beliefs attack or malign
14 an entire class of people, typically for immutable characteristics, as identified through listings of
15 such groups as may be made by the U. S. Department of Justice, the Federal Bureau of
16 Investigation, or officials having similar jurisdiction in this state;

17 (6) Are public schools to which parents or legal guardians choose to send their child or
18 children;

19 (7) Do not charge tuition and may only charge such fees as may be imposed by noncharter
20 public schools in this state; and

21 (8) Have no requirements that would exclude any child from enrollment who would not be
22 excluded at a noncharter public school.

23 (b) A public charter school authorized pursuant to this article shall be governed by a board
24 that meets the requirements established in §18-5G-7 of this code and:

25 (1) Has autonomy over key decisions, including, but not limited to, decisions concerning
26 finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

(2) Has no power to levy taxes;

(3) Operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs;

(B) May include in its mission a specific focus on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system; and

(C) May include a specific academic approach or theme including, but not limited to, approaches or themes such as STEM education, mastery-based education, early college, or fine and performing arts;

(5) Provides programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, regulations, rules and policies. A charter school shall deliver the services directly or contract with a county board or another provider to deliver the services as set forth in its charter contract;

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools;

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans;

Provided, That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to perform services relating to managing its employees' participation in

the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

(8) Is responsible for establishing a staffing plan that includes the requisite qualifications and any associated certification and/or licensure necessary for teachers and other instructional staff to be employed at the public charter school and for verifying that these requirements are met.

(c) A public charter school authorized pursuant to this article is exempt from all statutes and rules applicable to a noncharter public school or board of education except the following:

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability rights and health, life and safety requirements applicable to noncharter public schools in this state;

(2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

(3) The same immunization requirements applicable to noncharter public schools;

(4) The same compulsory school attendance requirements applicable to noncharter public schools;

(5) The same minimum number of days or an equivalent amount of instructional time per year as required of noncharter public school students under §18-5-44 of this code;

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of

public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements;

(7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-2-5h of this code;

(8) Use of the electronic education information system established by the West Virginia Department of Education for the purpose of reporting required information;

(9) Reporting information on student and school performance to parents, policy-makers, and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education. Nothing precludes a public charter school from utilizing additional measures for reporting information on student and school performance that go beyond state requirements;

(10) All applicable accounting and financial reporting requirements as prescribed for public schools, including adherence to generally accepted accounting principles. A public charter school shall annually engage an external auditor to perform an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the state superintendent of schools within nine months of the end of the fiscal year for which the audit is performed;

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history check has already been completed for that staff person pursuant to that section.

Governing board members and other public charter school personnel are subject to criminal history record checks and fingerprinting requirements applicable to noncharter public schools in this state. Contractors and service providers or their employees are prohibited from making direct, unaccompanied contact with students and from access to school grounds unaccompanied when

students are present if it cannot be verified that the contractors, service providers or employees have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

(12) The same zoning rules for its facilities that apply to noncharter public schools in this state;

(13) The same building codes, regulations and fees for its facilities that apply to noncharter public schools in this state, including any inspections required for noncharter public schools under this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of occupancy for any facility used by the public charter school; and

(14) The same student transportation safety laws applicable to public schools when transportation is provided.

§18-5G-4. West Virginia Board of Education; powers and duties for implementation, general supervision and support of public charter schools; authorizer responsibilities; limit on charter schools authorized.

(a) The state board shall consult with nationally recognized charter school organizations and establish and maintain a catalogue of best practices for public charter schools applicable for all applicants, authorizers, governing board members, and administrators that are consistent with this article and nationally recognized principles and professional standards for quality public charter school authorizing and governance in all major areas of authorizing and governance responsibility in the following areas:

(1) Organizational capacity and infrastructure;

(2) Solicitation and evaluation of charter applications;

(3) A framework to guide the development of charter contracts;

(4) Performance contracting including a performance framework;

(5) Providing transparency and avoiding all conflicts of interest;

(6) Ongoing charter school oversight and evaluation; and

(7) Charter approval, renewal, and revocation decision-making;

(b) The state board is responsible for exercising, in accordance with this article, the following powers and duties with respect to the oversight and authorization of public charter schools:

(1) Provide forms to promote the quality and ease of use for authorizers to solicit applications for public charter schools, for applicants to complete applications, and for establishing quality charter contracts that include a framework for performance standards. The forms shall be available for use and solicitations made not later than the beginning of February, 2020. The forms shall include an application deadline of August 2020 for any charter school proposing to begin operation for the 2021-22 school year. No charter school may begin operation prior to the 2021-22 school year;

(2) Provide training programs for public charter school applicants, administrators and governing board members, as applicable, that include, but are not limited to:

(i) Pre-application training programs and forms to assist in the development of high quality public charter school applications;

(ii) The required components and the necessary information of the public charter school application and the charter contract as set forth in this article;

(iii) The charter school board's statutory role and responsibilities;

(iv) Charter school employment policies and practices; and

(v) Authorizer responsibilities for charter school contract oversight and performance evaluation;

(3) Receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given;

(4) Apply for any federal funds that may be available for the implementation of public charter school programs;

39 (5) Establish reporting requirements that enable the state board to monitor the
40 performance and legal compliance of authorizers and public charter schools; and

41 (6) Submit to the Governor and the Legislature an annual report within 60 days of the end
42 of each school year summarizing:

43 (A) The student performance of all operating public charter schools; and

44 (B) The authorization status of all public charter schools within the last school year,
45 identifying all public charter schools as:

46 (i) Application pending;

47 (ii) Application denied;

48 (iii) Application approved, but not yet operating;

49 (iv) Operating and years of operation;

50 (v) Renewed and years of operation;

51 (vi) Terminated;

52 (vii) Closed;

53 (viii) Never opened; and

54 (ix) Any successful innovations applied in authorized schools which may be replicated in
55 other schools. The report shall provide information about how noncharter public schools may
56 implement these innovations.

57 (c) The state board shall be the authorizer of a public charter school when a county board
58 or boards approve the application for a public charter school and requests the state board to
59 perform the authorizer duties and responsibilities or when an application to form a public charter
60 school or to renew a charter contract is submitted from an applicant within a county in which the
61 state board has intervened and limited the power of the county board to act pursuant to §18-2E-
62 5 of this code.

§18-5G-5. State board rule relating to funding for charter school enrollment and other necessary provisions; local education agency status; authorizer oversight fee.

1 (a) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 et
2 seq. of this code setting forth requirements for public charter school funding. The rule shall include
3 a requirement that 90 percent of the per pupil total basic foundation allowance follow the student
4 to the public charter school, subject to the following:

5 (1) Notwithstanding §18-9A-1 et seq. of this code, the rule may provide for modifications
6 to the calculations set forth in §18-9A-7 of this code regarding the allowance for student
7 transportation and in §18-9A-9(1) of this code regarding the allowance for current expense for the
8 purpose of making appropriate adjustments to those allowances to account for student
9 transportation and current expense related funding a school district loses in situations where it
10 pays money to a charter school pursuant to this subsection without a corresponding decrease in
11 the county's transportation and current expense related expenditures;

12 (2) The rule shall designate which county school district is required to pay for a student
13 attending a public charter school, and notwithstanding the terms in the definition of "net
14 enrollment" in §18-9A-2 of this code, shall provide that the county school district paying for the
15 student attending a public charter school have that student included in its net enrollment for the
16 purposes of §18-9A-1 et seq. of this code; and

17 (3) The rule shall require the Department of Education to follow federal requirements in
18 ensuring that federal funding follows the student to a public charter school.

19 (b) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this
20 code, if necessary, for ensuring the accountability of public charter schools for meeting the
21 standards for student performance required of other public school students under §18-2E-5 of
22 this code and the accountability of authorizers for ensuring that those standards are met in the
23 schools authorized by it. If an authorizer fails to close a charter school that does not meet the
24 standards, the authorizer shall appear before the state board to justify its decision. The state

board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize charter schools.

(c) The school district in which the public charter school is located remains the local educational agency for all public charter schools authorized by the county board and the public charter school is a school within that local educational agency except that the public charter school is treated as a local educational agency for purposes of applying for competitive federal grants. The state board is the local education agency for public charter schools authorized by the state board except that the public charter school is treated as a local educational agency for purposes of applying for competitive federal grants.

(d) To cover authorizer costs for overseeing public charter schools, the state board shall establish a statewide formula for authorizer oversight funding, which shall apply uniformly to every authorizer in the state. Each public charter school shall remit to its respective authorizer an oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of the per pupil basic foundation as provided pursuant to state board rule promulgated in accordance with this section, not to exceed one percent of each public charter school's per-student funding in a single school year. The state board may establish a sliding scale for authorizing funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of schools have been authorized or after a certain number of students are enrolled in the authorizer's public charter schools. The state board shall establish a cap on the total amount of funding that an authorizer may withhold from a full-time public charter school. The state board shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this act.

(e) Notwithstanding §18-5G-2 of this code, the state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code which allows the schools for the deaf and blind to apply to the state board for authorization to become a public charter school.

51 (f) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this
52 code to clarify, if necessary, the requirements of this article and address any unforeseen issues
53 that might arise relating to the implementation of the requirements of this article. The rule also
54 shall include a provision prohibiting a county board from discrimination against any district
55 employee involved directly or indirectly with an application to establish a public charter school
56 under this article.

57 (g) All state board rules required to be promulgated by this article shall be promulgated on
58 or before January 1, 2020.

§18-5G-6. Authorizer powers and duties.

1 (a) Each authorizing authority is responsible for exercising in accordance with this article
2 the following powers and duties with respect to the oversight and authorization of public charter
3 schools:

4 (1) Demonstrate public accountability and transparency in all matters concerning its
5 charter-authorizing practices, decisions, and expenditures;

6 (2) Establish and maintain policies and practices consistent with the principles and
7 professional standards for authorizers of public charter schools, including standards relating to:

8 (A) Organizational capacity and infrastructure;

9 (B) Evaluating applications;

10 (C) Ongoing public charter school oversight and evaluation; and

11 (D) Charter approval, renewal, and revocation decision-making.

12 (3) Solicit applications and guide the development of high-quality public charter school
13 applications;

14 (4) Approve new charter applications that meet the requirements of this article and on the
15 basis of their application satisfying all requirements of §18-5G-8 of this code, that demonstrate
16 the ability to operate the school in an educationally and fiscally sound manner, and that are likely
17 to improve student achievement through the program detailed in the charter application;

(5) Decline to approve charter applications that fail to meet the requirements of §18-5G-8 of this code;

(6) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(7) Monitor the performance and compliance of public charter schools according to the terms of the charter contract; and

(8) Determine whether each charter contract it authorizes merits renewal or revocation.

(b) After an applicant submits a written application to establish a public charter school, the authorizer shall:

(1) Complete a thorough review process;

(2) Conduct an in-person interview with the applicant;

(3) Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;

(4) Provide a detailed analysis of the application to the applicant or applicants;

(5) Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and

(6) Approve or deny a charter application based on established objective criteria or request additional information.

(c) In deciding to approve a charter application, the authorizer shall:

(1) Approve charter applications only to applicants that possess competence in all elements of the application requirements identified in this section and §18-5G-8 of this code;

(2) Base decisions on documented evidence collected through the application review process; and

(3) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.

43 (d) No later than 90 days following the filing of the charter application, the authorizer shall
44 approve or deny the charter application. The authorizer shall provide its decision in writing,
45 including an explanation stating the reasons for approval or denial of its decision during an open
46 meeting. Any failure to act on a charter application within the time specified shall be deemed an
47 approval by the authorizer.

48 (e) An authorizer's charter application approval shall be submitted to the West Virginia
49 Department of Education.

50 (f) An authorizer shall conduct or require oversight activities that enable it to fulfill its
51 responsibilities under this article, including conducting appropriate inquiries and investigations,
52 so long as those activities are consistent with the intent of this article, adhere to the terms of the
53 charter contract and do not unduly inhibit the autonomy granted to charter schools. In the event
54 that a public charter school's performance or legal compliance appears unsatisfactory, the
55 authorizer shall promptly notify in writing the public charter school governing board of perceived
56 problems and provide reasonable opportunity for the school to remedy the problems: *Provided,*
57 That if the problem warrants revocation, the revocation time frames will apply;

58 (g) An authorizer shall take appropriate corrective actions or exercise sanctions in
59 response to apparent deficiencies in a charter school's performance or legal compliance. If
60 warranted, the actions or sanctions may include requiring a charter school to develop and execute
61 a corrective action plan within a specified time frame;

62 (h) An authorizer may require each charter school it oversees to submit an annual report
63 to assist the authorizer in gathering complete information about each school, consistent with the
64 performance framework.

65 (i) To cover authorizer costs for overseeing public charter schools, each public charter
66 school shall remit to its respective authorizer an oversight fee drawn from and calculated as a
67 uniform percentage of the per student operational funding allocated to each public charter school
68 as established by the state board by rule pursuant to §18-5G-5 of this code.

(j) An authorizer may receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given, and may apply for any federal funds that may be available for the implementation of public charter school programs;

(k) Notwithstanding any provision of this code to the contrary, no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school. Neither the county board of education nor the State of West Virginia shall be liable for the debts or financial obligations of a public charter school or any person or entity that operates a public charter school.

(l) Regulation of public charter schools by the state board and a county board shall be limited to those powers and duties of authorizers prescribed in this article and general supervision consistent with the spirit and intent of this article.

§18-5G-7. Public Charter school governing board.

(a) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members elected or selected in a manner specified in the charter application, including at least the following:

(1) Two parents of students attending the public charter school operating under the governing board; and

~~(2) Two members who reside in the community served by the public charter school.~~

(b) Members of the governing board shall:

(A) Not be an employee of the public charter school administered by the governing board;

(B) Not be an employee of an education service provider that provides services to the public charter school;

(C) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who are

employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school;

(D) Collectively possess expertise in leadership, curriculum and instruction, law, and finance; and

(E) Be considered an officer of a school district under the provisions of §6-6-7 of this code and removal from office shall be in accordance with the provisions of that section.

(c) The public charter school governing board shall:

(1) Operate under the oversight of its authorizer in accordance with its charter contract;

(2) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(3) Enroll students in the public charter school pursuant to §18-5G-11 of this code;

(4) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board; and

(5) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations.

A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(d) A public charter school authorized under this article may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools;
and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(e) The public charter school governing board is responsible for the operation of its public charter school, including, but not limited to, ensuring compliance with the public charter school criteria, governance and statutory compliance set forth §18-5G-3 of this code, the preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(f) The public charter school governing board shall comply with the provisions of §29B-1-1 et seq. of this code relating to freedom of information and the provisions of §6-9A-1 et seq. of this code relating to open governmental proceedings;

§18-5G-8. Application to establish public charter school.

(a) To establish a new public charter school, to convert an existing noncharter public school to a public charter school or establish a program conversion public charter school, an applicant shall submit a charter application to an authorizer. Charter authorizers shall accept and document the date and time of receipt of all charter applications.

(b) The application shall contain, at a minimum, the following information:

6 (1) A mission statement and a vision statement for the public charter school, including
7 specialized academic focus, if any, to be promoted and advanced through the establishment of
8 the public charter school;

9 (2) A detailed description of the public charter school's proposed program;

10 (3) The student achievement goals for the public charter school's program and the chosen
11 methods of evaluating whether students have attained the skills and knowledge specified for
12 those goals;

13 (4) The school's plan for using data derived from student evaluations and assessments,
14 including the statewide summative assessment, to drive instruction and promote continued school
15 improvement;

16 (5) An explanation of how the school's proposed program is likely to improve the
17 achievement of traditionally underperforming students in the local school district;

18 (6) The proposed governance structure of the school, including a list of members of the
19 initial governing board, a draft of bylaws that include the description of the qualifications, terms,
20 and methods of appointment or election of governing board members, and the organizational
21 structure of the school that clearly presents lines of authority and reporting between the governing
22 board, school administrators, staff, any related bodies such as advisory bodies or parent and
23 teacher councils, and any external organizations that will play a role in managing the school;

24 (7) Plans and timelines for student enrollment, including the school primary recruitment
25 area and policies and procedures for conducting transparent and random admission lotteries
26 when applications for enrollment exceed capacity that are open to the public and consistent with
27 this article;

28 (8) A proposed five-year budget, including the start-up year and projections for four
29 additional years with clearly stated assumptions;

30 (9) Proposed fiscal and internal control policies for the public charter school;

31 (10) Acknowledgement that the public charter school will participate in the state's
32 accountability system;

33 (11) A proposed handbook that outlines the personnel policies of the public charter school,
34 including the criteria to be used in the hiring of qualified teachers, school administrators, and other
35 school employees, a description of staff responsibilities, and the school's plan to evaluate
36 personnel on an annual basis;

37 (12) An explanation of proposed student discipline procedures, including disciplinary
38 procedures for students with disabilities, which shall be consistent with the requirements of due
39 process and with state and federal laws and regulations governing the placement of students with
40 disabilities;

41 (13) A description of the facilities to be used by the public charter school, including the
42 location of the school and how the facility supports the implementation of the school's program.
43 The school shall obtain all required occupation and operation certificates and licenses prior to the
44 first instructional day for students;

45 (14) The proposed ages and grade levels to be served by the public charter school,
46 including the planned minimum and maximum enrollment per grade per year;

47 (15) The school calendar and school day schedule;

48 (16) Types and amounts of insurance coverage to be obtained by the public charter
49 school, which;

50 (A) Shall include adequate insurance for liability, property loss, and the personal injury of
51 students comparable to noncharter public schools within the local school district operated by the
52 county board; and

53 (B) May include coverage from the Board of Risk and Insurance Management pursuant to
54 §29-12-5a of this code;

55 (17) A description of the food services to be provided to students attending the school;

56 (18) Process and procedures to be followed in the case of the closure or dissolution of the
57 public charter school, including provisions for the transfer of students and student records to the
58 appropriate local school district and an assurance and agreement to payment of net assets or
59 equity after payment of debts;

60 (19) A code of ethics for the school setting forth the standards of conduct expected of its
61 governing board, officers, and employees;

62 (20) The public charter school's plan for successfully serving students with disabilities,
63 students who are English language learners, bilingual students, and students who are
64 academically behind and gifted, including, but not limited to, the school's plan for compliance with
65 all applicable federal and state laws and regulations;

66 (21) A description of cocurricular and extracurricular programs to be offered by the public
67 charter school and how they will be funded and delivered;

68 (22) The process by which the school will resolve any disputes with the authorizer;

69 (23) A detailed start-up plan, including financing, tasks, timelines, and individuals
70 responsible for carrying out the plan;

71 (24) The public charter school's plan for notice to parents and others of enrollment in the
72 school as an option available for students and the school's primary recruitment area; and

73 (25) The public charter school's plan for parental involvement.

74 (c) If the applicant intends to contract with an education service provider for educational
75 program implementation or comprehensive management, the application shall additionally require
76 the applicant to provide the following information with respect to the educational service provider:

77 (1) Evidence of success in serving student populations similar to the targeted population,
78 including demonstrated academic achievement as well as successful management of
79 nonacademic school functions, if applicable;

80 (2) Student performance data and financial audit reports for all current and past public
81 charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

§18-5G-9. Charter contract requirements; term of contract.

(a) Within 90 days of the approval of a charter application, the governing board and the authorizer shall negotiate and enter into a charter contract.

(b) The charter contract shall address, in detail, the following items:

(1) The term of the contract: *Provided*, That the contract term shall be no longer than five years;

(2) The agreements relating to each item required in the charter application and, if applicable, the agreement with an education service provider that the governing boards intends to contract with for educational program implementation or comprehensive management;

(3) The rights and duties of the authorizer and the public charter school;

(4) The administrative relationship between the authorizer and the public charter school;

(5) The process the authorizer will use to provide ongoing oversight;

(6) The specific commitments of the authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;

(7) The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found;

(8) The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the governing board;

(9) The process agreed to by the authorizer and the governing board that identifies how disputes between the authorizer and the board will be handled;

(10) Any other terms and conditions agreed to by the authorizer and the governing board, including preopening conditions.

(c) The charter contract shall include provisions relating to the performance of the public charter school that set forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the performance provisions shall include indicators, measures, and metrics for:

(1) Student academic proficiency;

(2) Student academic growth;

(3) Achievement gaps in both student proficiency and student growth between student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;

(4) Student attendance;

(5) Student suspensions;

(6) Student withdrawals;

(7) Recurrent enrollment from year to year;

(8) Governing board's performance and stewardship, including compliance with all applicable statutes and terms of charter contract; and

(9) Additional valid and reliable indicators requested by the public charter school.

(d) A charter contract shall include provisions for revoking the charter contract. At a minimum, these provisions shall include:

(1) The information that must be included in the authorizer's initial decision to revoke the charter contract;

(2) Notification requirements to the governing board about the authorizer's initial decision to revoke a charter contract and the reasons for the revocation;

(3) An opportunity and timeframe for the governing board to provide a response to the authorizer's initial decision to revoke the charter contract;

(4) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should not be revoked;

(5) An opportunity for a recorded public hearing, at the request of the governing board;

(6) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract;

(7) The information that must be included in the authorizer's final decision if it determines to revoke the charter contract;

(8) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(9) Rendering of the authorizer's decision shall be adopted during an open meeting; and

(10) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed.

(e) The authorizer shall be responsible for collecting and reporting to the state board all state-required assessment and achievement data for the public charter school.

(f) The charter contract shall be signed by the chair of the governing board and the president of the county board, presidents of the county boards, or the president of the public or

63 private institution of higher education, as applicable. A copy of the charter contract shall be
64 provided to the State Superintendent of Schools.

65 (g) No public charter school may commence operations without a charter contract that
66 meets the requirements of this section, has been properly executed, and has been approved by,
67 as applicable, a county board, county boards, or the state board.

§18-5G-10. Charter contract renewal; performance report by authorizer and renewal
guidance; renewal application; renewal term; nonrenewal and revocation; closure
and dissolution.

1 (a) No later than June 30 of a public charter school's fourth year of operation under each
2 five-year term of a charter contract, the authorizer shall issue a performance report on the public
3 charter school. The performance report shall summarize the public charter school's performance
4 record to date, based on the data collected under the performance framework in section eleven
5 of this article and the charter contract, and shall provide notice of any weaknesses or concerns
6 perceived by the authorizer concerning the school that may jeopardize its position in seeking
7 renewal if not timely rectified. The school and the authorizer shall mutually agree to a reasonable
8 time period for the charter school to respond to the performance report and submit any corrections
9 for the report.

10 (b) If the public charter school's contract is expiring, the authorizer shall offer contract
11 renewal application guidance to the school. The renewal application guidance required by this
12 subsection shall include or refer explicitly to the criteria and standards that will guide the
13 authorizer's renewal decisions. These criteria and standards shall be based on the performance
14 framework set forth in section eleven of this article, as set forth in the charter contract and
15 consistent with this article. The renewal application guidance shall, at a minimum, require and
16 provide an opportunity for the public charter school to:

17 (1) Present additional evidence, beyond the data contained in the performance report,
18 supporting its case for charter renewal;

19 (2) Describe improvements undertaken or planned for the school; and

20 (3) Detail the school's plans for the next charter term.

21 (c) No later than September 30 of a public charter school's final authorized year of
22 operation under a term of a charter contract, the governing board of the public charter school
23 seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal
24 application guidance offered by the authorizer under subsection (b) of this section. The authorizer
25 shall rule in a public meeting and by resolution on the renewal application no later than 45 days
26 after the filing of the renewal application. In making charter renewal decisions, the authorizer shall:

27 (1) Ground its decisions on a thorough analysis of evidence of the school's performance
28 over the term of the charter contract in accordance with the terms and measures established in
29 the performance framework set forth in the charter contract;

30 (2) Ensure that data used in making renewal decisions are available to the public charter
31 school and the public;

32 (3) Provide a public report summarizing the evidence basis for each decision; and

33 (4) Include one of the following rulings:

34 (A) Renew the charter contract for another term of five years based on the school's
35 performance data and demonstrated capacities of the public charter school; or

36 (B) Decline to renew the charter contract. The authorizer shall clearly state in a resolution
37 the reasons for the nonrenewal. The governing board of the school shall be granted 30 days to
38 respond in writing to the decision and public report before that decision becomes final. The
39 governing board shall be allowed to provide the authorizer with such arguments and supporting
40 information as it sees fit and also shall be granted an opportunity for a recorded public hearing,
41 at the request of the governing board. The authorizer shall consider the governing board's
42 response, testimony, and documentation, as well as the recorded public hearing, prior to
43 rendering a final decision on the revocation of the charter contract. The authorizer shall render its
44 final determination within 10 days of the close of the 30-day period.

45 (d) The failure of the authorizer to act on a renewal application within the designated
46 timeframes shall be deemed an approval of the renewal application.

47 (e) Within 10 days of taking final action to renew, not renew or revoke a charter under this
48 section, the authorizer shall report the action taken and reasons for the decision to the school's
49 governing board and the state board or affected county board, as applicable. A copy of the report
50 shall be submitted at the same time to the state superintendent.

51 (f) A charter contract may be revoked at any time or not renewed if the authorizer
52 determines that the health and safety of students attending the public charter school is threatened
53 or the public charter school has:

54 (A) Failed to comply with the provisions of this article:

55 (B) Committed a material violation of any of the terms, conditions, standards or procedures
56 required under this chapter or the charter contract;

57 (C) Failed to meet the performance expectations set forth in the charter contract;

58 (D) Failed to meet generally accepted standards of fiscal management; or

59 (E) Violated any provision of law from which the school was not exempted.

60 (g) If an authorizer does not renew or revokes a charter contract, the authorizer shall
61 clearly state in a resolution in a public meeting, the reasons for the nonrenewal or revocation.

62 (h) If an authorizer revokes a charter contract, the authorizer shall close the school:
63 Provided, That when the charter is revoked or not renewed for a school that began as a
64 conversion public charter school or program conversion public charter school, the county board
65 of the district in which the school is located may return it to noncharter public school status.

66 (i) If a public charter school is closed, the authorizer shall clearly state in a resolution in a
67 public meeting, the reasons for the closure.

68 (j) In the event of a public charter school closure for any reason, the authorizer shall
69 oversee and work with the closing school to ensure a smooth and orderly closure and transition

for students and parents, as guided by the closure protocol established by the state board including, but not limited to, the following:

(1) Overseeing and working with the closing public charter school to ensure timely notification to parents, orderly transition of students and student records to new schools and proper disposition of school funds, property and assets in accordance with the requirements of this chapter; and

(2) Distributing the assets of the public charter school first to satisfy outstanding payroll obligations for employees of the public charter school and then to creditors of the public charter school. Any remaining funds shall be paid to the county board. If the assets of the public charter school are insufficient to pay all parties to whom the public charter school owes compensation, the prioritization of distribution of assets may be determined by decree of a court of law.

(k) If a public charter school is subject to closure or transition, following exhaustion of any appeal allowed under §18-5G-13 of this code, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure or transition. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure or transition of the public charter school in the name and interest of the public charter school.

§18-5G-11. Public charter school students; enrollment and eligibility; enrollment preferences; random selection lottery; enrollment discrimination prohibited; credit transfers; participation in interscholastic sports.

(a) Public charter schools are open for enrollment to all students of appropriate grade level age and all students shall be enrolled in accordance with the following:

(1) A public charter school shall provide or publicize to parents and the general public information about the public charter school as an enrollment option for students and the process for application and enrollment, including dates and timelines. If the public charter school includes

6 in its mission a specific focus on students with special needs, including, but not limited to, at-risk
7 students, English language learners, students with severe disciplinary problems at a noncharter
8 public school or students involved with the juvenile justice system, it shall include the information
9 in such publication. A public charter school's recruitment effort shall include all segments of the
10 student populations served by noncharter public schools of comparable grade levels;

11 (2) A county board shall provide or publicize to parents and the general public information
12 about public charter schools within the county as an enrollment option to the same extent and
13 through the same means that the county provides and publicizes information about noncharter
14 public schools in the county;

15 (3) A county board may not require any student residing in the county to enroll in a public
16 charter school, nor may it prohibit any charter school student from returning to a noncharter public
17 school;

18 (4) A public charter school shall designate its primary recruitment area in its charter
19 application and charter contract. The establishment of a primary recruitment area by a public
20 charter school does not negate any overlapping attendance area or areas established by a county
21 board or boards for noncharter public schools. A primary recruitment area may include territory in
22 more than one county;

23 (5) The primary recruitment area shall be based on the public charter school's estimated
24 facility and program capacity. The capacity of the public charter school shall be determined
25 annually by the governing board of the public charter school in conjunction with its authorizer and
26 in consideration of the public charter school's ability to facilitate the academic success of its
27 students, to achieve the other objectives specified in the charter contract, and to ensure that the
28 student enrollment does not exceed the capacity of its facility, site and programs. An authorizer
29 may not restrict the number of students a public charter school may enroll;

30 (6) Public charter school enrollment decisions may not discriminate against any person on
31 any basis which would be unlawful for noncharter public schools in the school district. A public

charter school may not establish admission policies or limit student admissions in any manner in which a public school is not permitted to establish admission policies or limit student admissions: *Provided*, That this subdivision may not be construed to limit the formation of a public charter school that is dedicated to focusing its education program and services on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system;

(7) A public charter school may establish any one or more of the following enrollment preferences for:

(A) Children who reside within the school's primary recruitment area;

(B) Students enrolled in the public charter school the previous school year and siblings of students already enrolled in the public charter school;

(C) Children with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system, it shall include the information in such publication, and

(D) Children of governing board members and full-time employees of the school as long as the number of students enrolled under this preference constitute no more than five percent of the school's total student enrollment;

(8) A start-up public charter school shall enroll all students who apply and to whom an enrollment preference has been established. If the school has excess capacity after enrolling these students, the school shall enroll all other students who apply: *Provided*, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of the public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting;

(9) A conversion public charter school shall guarantee enrollment to all students who were previously enrolled in the noncharter public school and shall adopt and maintain a policy that gives enrollment preference to students who reside within the attendance area as established prior to the conversion of the school. If the school has excess capacity after enrolling these students and all others to whom an enrollment preference has been given, the school shall enroll all other students who apply: *Provided*, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of a public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting; and

(10) A program conversion public charter school shall enroll all students who apply for enrollment in the program who, at the time of authorization, are enrolled in the noncharter public school at which the program is operated. A program conversion public charter school shall adopt and maintain a policy that gives enrollment preference to students who are enrolled in the noncharter public school at which the program is operated. If the school has excess capacity after enrolling these students, the school shall enroll all other students who apply: *Provided*, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of a public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting.

(b) If a student who was previously enrolled in a public charter school transfers enrollment to a noncharter public school in this state, the school to which the student transfers shall accept credits earned by the student in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other noncharter public schools or that consider content competency when

appropriate due to differences in curriculum delivery, instructional methods and strategies, or course designations and sequence.

(c) Each public charter school shall be given access to and shall utilize the electronic education information system established by the West Virginia Department of Education, is subject to the Student Data Accessibility, Transparency and Accountability Act pursuant to section §18-2-5h of this code, and shall report information on student and school performance to parents, policy-makers and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education.

(d) Each public charter school shall certify annually to the State Department of Education and to the county board of the school district in which the charter school is located its student enrollment, average daily attendance and student participation in the national school lunch program, special education, vocational education, gifted education, advanced placement and dual credit courses, and federal programs in the same manner as school districts.

§18-5G-12. Access to public facilities.

(a) A public charter school may request usage of public facilities from the county board or other public entity in the county where the charter school is located or proposes to locate. A county board or other public entity shall make facilities available to the charter school that are either not used, in whole or in part, for classroom instruction at the time the charter school seeks to use or lease the public facility.

(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.

(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs, and remodeling. The county school board is responsible for any debt incurred or liens that are attached to the school building before the charter school leases the public facility.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:

“Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.

“Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

“Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

“Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

“Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last 15 fiscal years of total service credit, including military service as provided in this article, or if total service is less than 15 years, the average annual salary for the period on which contributions were made: *Provided*, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

“Beneficiary” means the recipient of annuity payments made under the retirement system.

“Contributor” means a member of the retirement system who has an account in the Teachers Accumulation Fund.

“Deposit” means a voluntary payment to his or her account by a member.

25 “Employer” means the agency of and within the state which has employed or employs a
26 member.

27 “Employer error” means an omission, misrepresentation, or violation of relevant provisions
28 of the West Virginia Code, or of the West Virginia Code of State Regulations, or the relevant
29 provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by
30 the participating public employer that has resulted in an underpayment or overpayment of
31 contributions required. A deliberate act contrary to the provisions of this section by a participating
32 public employer does not constitute employer error.

33 “Employment term” means employment for at least 10 months, a month being defined as
34 20 employment days.

35 “Gross salary” means the fixed annual or periodic cash wages paid by a participating
36 public employer to a member for performing duties for the participating public employer for which
37 the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the
38 work was done. Gross salary also includes retroactive payments made to a member to correct a
39 clerical error, or made pursuant to a court order or final order of an administrative agency charged
40 with enforcing federal or state law pertaining to the member’s rights to employment or wages, with
41 all retroactive salary payments to be allocated to and considered paid in the periods in which the
42 work was or would have been done. Gross salary does not include lump sum payments for
43 bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind
44 including, but not limited to, transportation allowances, automobiles or automobile allowances, or
45 lump sum payments for unused, accrued leave of any type or character.

46 “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been
47 amended.

48 “Member” means any person who has accumulated contributions standing to his or her
49 credit in the State Teachers Retirement System. A member shall remain a member until the

benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

“Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

“Members of the extension staff of the public schools” means every agricultural agent, boys and girls club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

“New entrant” means a teacher who is not a present teacher.

“Nonteaching member” means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education or educational services cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; ~~or~~ (E) a governing board, as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to §18-7B-7a: Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

“Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

“Present member” means a present teacher or nonteacher who is a member of the retirement system.

“Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

75 “Prior service” means all service as a teacher completed prior to July 1, 1941, and all
76 service of a present member who was employed as a teacher and did not contribute to a
77 retirement account because he or she was legally ineligible for membership during the service.

78 “Public schools” means all publicly supported schools, including colleges and universities
79 in this state.

80 “Refund beneficiary” means the estate of a deceased contributor or a person he or she
81 has nominated as beneficiary of his or her contributions by written designation duly executed and
82 filed with the retirement board.

83 “Regular interest” means interest at four percent compounded annually, or a higher
84 earnable rate if set forth in the formula established in legislative rules, series seven of the
85 Consolidated Public Retirement Board, 162 CSR 7.

86 “Regularly employed for full-time service” means employment in a regular position or job
87 throughout the employment term regardless of the number of hours worked or the method of pay.

88 “Required beginning date” means April 1 of the calendar year following the later of: (A)
89 The calendar year in which the member attains age 70 and one-half years; or (B) the calendar
90 year in which the member retires or ceases covered employment under the system after having
91 attained the age of 70 and one-half years.

92 “Retirant” means any member who commences an annuity payable by the retirement
93 system.

94 “Retirement board” means the Consolidated Public Retirement Board created pursuant to
95 §5-10D-1 *et seq.* of this code.

96 “Retirement system” means the State Teachers Retirement System established by this
97 article.

98 “Teacher member” means the following persons, if regularly employed for full-time service:
99 (A) Any person employed for instructional service in the public schools of West Virginia; (B)
100 principals; (C) public school librarians; (D) superintendents of schools and assistant county

superintendents of schools; (E) any county school attendance director holding a West Virginia teacher's certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education, or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and Rehabilitation, the Division of Health, or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; (L) employees of an educational services cooperative who are performing services of an educational nature; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code.

"Total service" means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-2. Definitions.

As used in this article, unless the context clearly requires a different meaning:

2 “Annual addition” means, for purposes of the limitations under Section 415(c) of the
3 Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A)
4 Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs
5 or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover
6 contributions and picked-up employee contributions to a defined benefit plan may not be treated
7 as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

8 “Annuity account” or “annuity” means an account established for each member to record
9 the deposit of member contributions and employer contributions and interest, dividends, or other
10 accumulations credited on behalf of the member.

11 “Compensation” means the full compensation actually received by members for service
12 whether or not a part of the compensation is received from other funds, federal or otherwise, than
13 those provided by the state or its subdivisions: *Provided*, That annual compensation for
14 determining contributions during any determination period may not exceed the maximum
15 compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and
16 Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That solely for purposes of
17 applying the limitations of Section 415 of the Internal Revenue Code to any annual addition,
18 “compensation” has the meaning given it in ~~§18-7B-13d~~ §18-7B-13(d) of this code.

19 “Consolidated board” or “board” means the Consolidated Public Retirement Board created
20 and established pursuant to §5-10D-1 *et seq.* of this code.

21 “Defined contribution system” or “system” means the Teachers’ Defined Contribution
22 Retirement System created and established by this article.

23 “Employer” means the agency of and within the State of West Virginia which has employed
24 or employs a member.

25 “Employer contribution” means an amount deposited into the member’s individual annuity
26 account on a periodic basis coinciding with the employee’s regular pay period by an employer
27 from its own funds.

“Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days.

“Existing employer” means any employer who employed or employs a member of the system.

“Existing retirement system” means the State Teachers Retirement System established in §18-7A-1 *et seq.* of this code.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education, educational services cooperative, or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers’ Defined

Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 et seq. of this code.

“Member contribution” means an amount reduced from the employee’s regular pay periods, and deposited into the member’s individual annuity account within the Teachers’ Defined Contribution Retirement System.

“Permanent, total disability” means a mental or physical incapacity requiring absence from employment service for at least six months: *Provided*, That the incapacity is shown by an examination by a physician or physicians selected by the board: *Provided, however*, That for employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness.

“Plan year” means the 12-month period commencing on July 1 of any designated year and ending on the following June 30.

“Public schools” means all publicly supported schools, including normal schools, colleges, and universities in this state.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar

79 year in which the member retires or otherwise ceases employment with a participating employer
80 after having attained the age of 70 and one-half years.

81 "Retirement" means a member's withdrawal from the active employment of a participating
82 employer and completion of all conditions precedent to retirement.

83 "Year of employment service" means employment for at least 10 months, with a month
84 being defined as 20 employment days: *Provided*, That no more than one year of service may be
85 accumulated in any 12-month period.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

1 (a) The county attendance director and the assistants shall diligently promote regular
2 school attendance. The director and assistants shall:

3 (1) Ascertain reasons for unexcused absences from school of students of compulsory
4 school age and students who remain enrolled beyond the compulsory school age as defined
5 under section one-a of this article;

6 (2) Take such steps as are, in their discretion, best calculated to encourage the attendance
7 of students and to impart upon the parents and guardians the importance of attendance and the
8 seriousness of failing to do so;

9 (3) For the purposes of this article, the following definitions apply:

10 (A) "Excused absence" includes:

11 (i) Personal illness or injury of the student;

12 (ii) Personal illness or injury of the student's parent, guardian, custodian, or family
13 member: *Provided*, That the excuse must provide a reasonable explanation for why the student's
14 absence was necessary and caused by the illness or injury in the family;

15 (iii) Medical or dental appointment with written excuse from physician or dentist;

- 16 (iv) Chronic medical condition or disability that impacts attendance;
- 17 (v) Participation in home or hospital instruction due to an illness or injury or other
18 extraordinary circumstance that warrants home or hospital confinement;
- 19 (vi) Calamity, such as a fire or flood;
- 20 (vii) Death in the family;
- 21 (viii) School-approved or county-approved curricular or extra-curricular activities;
- 22 (ix) Judicial obligation or court appearance involving the student;
- 23 (x) Military requirement for students enlisted or enlisting in the military;
- 24 (xi) Personal or academic circumstances approved by the principal; and
- 25 (xii) Such other situations as may be further determined by the county board: *Provided,*
26 That absences of students with disabilities shall be in accordance with the Individuals with
27 Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in
28 compliance therewith; and
- 29 (B) "Unexcused absence" means any absence not specifically included in the definition of
30 "excused absence"; and
- 31 (4) All documentation relating to absences shall be provided to the school no later than
32 three instructional days after the first day the student returns to school.
- 33 (b) In the case of three total unexcused absences of a student during a school year, the
34 attendance director, or assistant, or principal shall ~~serve written notice to the parent, guardian or~~
35 ~~custodian of the student that the attendance of the student at school is required and that if the~~
36 ~~student has five unexcused absences, a conference with the principal or other designated~~
37 ~~representative will be required.~~ make meaningful contact with the parent, guardian, or custodian
38 of the student to ascertain the reasons for the unexcused absences and what measures the
39 school may employ to assist the student in attending and not incurring any additional unexcused
40 absences.

41 (c) In the case of five total unexcused absences, the attendance director or assistant or
42 principal shall ~~serve written notice to the parent, guardian or custodian of the student that within~~
43 ~~five days of receipt of the notice the parent, guardian or custodian, accompanied by the student,~~
44 ~~shall report in person to the school the student attends for a conference with the principal or other~~
45 ~~designated representative of the school in order to discuss and correct the circumstances causing~~
46 ~~the unexcused absences of the student, including the adjustment of unexcused absences based~~
47 ~~upon such meeting.~~ again make meaningful contact with the parent, guardian, or custodian of the
48 student to ascertain the reasons for the unexcused absences and what measures the school may
49 employ to assist the student in attending school and not incurring any additional unexcused
50 absences.

51 (d) In the case of 10 total unexcused absences of a student during a school year, the
52 attendance director or assistant may make a complaint against the parent, guardian or custodian
53 before a magistrate of the county. If it appears from the complaint that there is probable cause to
54 believe that an offense has been committed and that the accused has committed it, a summons
55 or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the
56 summons or to arrest persons charged with offenses against the state. More than one parent,
57 guardian or custodian may be charged in a complaint. Initial service of a summons or warrant
58 issued pursuant to the provisions of this section shall be attempted within ten calendar days of
59 receipt of the summons or warrant and subsequent attempts at service shall continue until the
60 summons or warrant is executed or until the end of the school term during which the complaint is
61 made, whichever is later.

62 (e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the
63 magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within
64 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the
65 assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the
66 accused at least 10 days' advance notice of the date, time and place of the hearing.

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director and assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this code that set forth student absences that are excluded for accountability purposes. The absences that are excluded by rule shall include, but are not limited to, excused student absences, students

not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided in subsection-a of this section, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

For the purpose of this article:

(a) "State board" means the West Virginia Board of Education.

(b) "County board" or "board" means a county board of education.

(c) "Professional salaries" means the state legally mandated salaries of the professional educators as provided in §18A-4-1 *et seq.* of this code.

(d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A

professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

(f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students, as well as professional personnel addressing chronic absenteeism. For all purposes except for the determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: *Provided*, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in regular secondary vocational programs: ~~subject to the following~~
Provided, That (A) net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced

Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency; Provided further, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code; and

~~(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;~~

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision by the difference between 1,400 and the county's actual net enrollment;

(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the county's actual net enrollment and increase that total amount by 10 percent; and

61 ~~(C)~~ (D) If the increase in net enrollment as determined under this subdivision ~~plus the~~
62 ~~county's net enrollment as determined under all other provisions of this subsection~~ is greater than
63 1,400, the increase in calculated net enrollment shall be reduced so that the total does not exceed
64 to 1,400; and

65 ~~(D)~~ (E) During the 2008-2009 interim period and every three interim periods thereafter, the
66 Legislative Oversight Commission on Education Accountability shall review this subdivision to
67 determine whether ~~or not~~ these provisions properly address the needs of counties with low
68 enrollment and a sparse population density.

69 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any
70 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition
71 of "net enrollment", to the square miles of the county is less than five.

72 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any
73 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition
74 of "net enrollment", to the square miles of the county is equal to or greater than five but less than
75 10.

76 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any
77 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition
78 of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than
79 20.

80 (m) "High-density county" means a county whose ratio of net enrollment, excluding any
81 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition
82 of "net enrollment", to the square miles of the county is equal to or greater than 20.

83 (n) "Levies for general current expense purposes" means ~~90~~ 85 percent of the levy rate
84 for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this
85 code.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year.

§18-9A-8. Foundation allowance for professional student support services.

(a) ~~The~~ Until the 2019-2020 fiscal year, the basic foundation allowance to the county for professional student support personnel shall be the same amount of money ~~determined in accordance with the following:~~

~~(1) The sum of the state minimum salaries, as determined in accordance with the provisions of §18-4-1 et seq. of this code, for all state aid eligible school nurse and counselor positions in the county during the 2008 fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under §18-9A-4 of this code to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under §18-9A-4 of this code and the denominator shall be the total number of professional educators employed that are eligible to be funded under §18-9A-4 of this code;~~

~~(2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by one half percent;~~

~~(3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic foundation allowance to the county for professional student support personnel for the 2009 fiscal year;~~

~~(4) For fiscal years 2010, 2011, 2012, and 2013, the basic foundation allowance to the county for professional student support personnel increases by one-half percent per year over the allowance for the previous year; and~~

~~(5) For all fiscal years thereafter, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the 2013 fiscal year, plus any additional amount of funding necessary to cover the any increases in the State Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning July 1, 2018, and thereafter.~~

~~(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:~~

~~(1) Enhance student achievement;~~

~~(2) Provide early intervention for students in grades prekindergarten through five; and~~

~~(3) Enhance student development and career readiness.~~

(b) Effective for the 2019-2020 fiscal year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay the state minimum salaries, in accordance with provisions of §18A-4-1 *et seq.* of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for four and seventy hundredths state aid eligible professional student support personnel positions to each

1,000 students in net enrollment; *Provided* that nothing in this section precludes the county from entering into public-private partnerships or other contracts to provide these services;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional student support personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(5) For the 2019-2020 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.

The total allowance for other current expense and substitute employees is the sum of the following:

(1) For current expense:

(A) The non-salary related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

8 (B) The total square footage of school buildings in each county divided by each county's
9 net enrollment for school aid purposes is used to calculate a state average square footage per
10 student;

11 (C) Each county's net enrollment for school aid purposes multiplied by the state average
12 expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this
13 subdivision and multiplied by the state average square footage per student as calculated in
14 paragraph (B) of this subdivision is that county's state average costs per square footage per
15 student for operations and maintenance;

16 (D) Where two or more counties join together in support of a vocational or comprehensive
17 high school or any other program or service, the allowance for current expense may be prorated
18 among the participating counties by adjusting the net enrollment for school aid purposes utilized
19 in the calculation by the number of students enrolled therein for each county; and

20 (E) Each county's allowance for current expense is 70.25% of the county's state average
21 costs per square footage per student for operations and maintenance amount as calculated in
22 paragraph (C) of this subdivision; Provided, That effective for the 2019-2020 fiscal year and each
23 year thereafter, each county's allowance for current expense is 71.25 percent of the county's state
24 average costs per square footage per student for operations and maintenance amount as
25 calculated in paragraph (C) of this subdivision; plus

26 (2) For professional educator substitutes or current expense, two and five-tenths percent
27 of the computed state allocation for professional educators and professional student support
28 personnel as determined in §18-9A-4 and §18-9A-8 of this code. Distribution to the counties is
29 made proportional to the number of professional educators and professional student support
30 personnel authorized for the county in compliance with §18-9A-4 and §18-9A-8 of this code; plus

31 (3) For service personnel substitutes or current expense, two and five-tenths percent of
32 the computed state allocation for service personnel as determined in §18-9A-5 of this code.

Distribution to the counties is made proportional to the number of service personnel authorized for the county in compliance with §18-9A-5 of this code; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 per professional instructional personnel employed at the school. "Faculty Senate" means a faculty senate created pursuant to §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of §18-5A-5 of this code and may not be used to supplant the current expense expenditures of the county; Provided, That notwithstanding any provisions of that section to the contrary, each classroom teacher and librarian shall be allotted \$300 for expenditure during the instructional year as provided by that section. ~~Beginning on September 1, 1994, and every~~ On September thereafter 1 of each year, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

§18-9A-19. State Aid Block Grant Funding.

Beginning for the school year 2019-2020 and thereafter, each county board shall receive its allocated state aid share of the county's basic foundation program as calculated pursuant to this article in the form of block grants. Notwithstanding other provisions within this article, all funds distributed to a county board in a block grant shall be exempt from expenditure requirements and limitations contained within this article and a recipient county board may expend such funds in any authorized and allowable manner the county board deems appropriate: *Provided, That* all expenditures shall be consistent with the provisions of all other articles of this code.

ARTICLE 9B. STATE BOARD OF SCHOOL FINANCE.

§18-9B-22. Searchable budget database and website.

1 (a) Effective July 1, 2020, the state superintendent shall provide the State Auditor with the
2 required data for use by the searchable budget data website: *Provided*, That the state
3 superintendent shall not be required to violate the Family Educational Rights and Privacy Act in
4 providing such data. The data shall also contain the required information for the previous three
5 fiscal years provided such data is available.

6 (b) The required data shall include for use by the searchable budget database website the
7 following content:

8 (1) The name and principal location or residence of the entity or recipients of funds:
9 *Provided*, That employee addresses shall not be made public or otherwise displayed on the
10 budget data website;

11 (2) The name of the person or entity requesting the funds;

12 (3) The amount of funds expended;

13 (4) The funding or expending agency;

14 (5) The funding source of the revenue expended;

15 (6) The budget program or activity of the expenditure;

16 (7) A descriptive purpose for the funding action or expenditure;

17 (8) Any state audit or report relating to the entity or recipient of funds or the budget program
18 or agency; and

19 (9) Any other relevant information specified by the Legislature.

20 (c) The information shall be updated for each fiscal year no later than 30 days following
21 the end of the fiscal year. In addition, the State Auditor shall update the searchable budget
22 database website as new data becomes available. The State Auditor shall provide guidance to
23 the state superintendent to ensure compliance with this section.

24 (d) Nothing in this subsection is intended to cause a substantial modification to the West
25 Virginia Education Information System.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services for exceptional children.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, ~~formula~~ and formulas for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~An~~ A separate appropriation shall be made to the Department of Education to be ~~distributed~~ disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 et seq. of this code to support children assist them with serving exceptional children with high cost/high acuity special needs that exceed the capacity of county to provide with funds available. Each county board and public charter school shall apply to the state superintendent for receipt of to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed disbursed to county boards and public charter schools for this purpose before any of the state appropriation

is ~~distributed~~ disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to ~~distributing~~ disbursing the funds to the county boards and public charter schools. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards ~~of education~~ and public charter schools, their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

~~(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995.~~

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services for exceptional children out of funds available from local revenue.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year: Provided, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE I

| Years Exp | 4 th Class | 3 rd Class | 2 nd Class | A.B. | A.B. + 15 | M.A. | M.A. + 15 | M.A. + 30 | M.A. + 45 | Doc- torate |
|--------------|--------------------------|--------------------------|--------------------------|--------|--------------|--------|--------------|--------------|--------------|----------------|
| 0 | 29,937 | 30,626 | 30,892 | 32,335 | 33,096 | 34,863 | 35,624 | 36,385 | 37,146 | 38,181 |
| 1 | 30,265 | 30,954 | 31,220 | 32,853 | 33,614 | 35,382 | 36,143 | 36,903 | 37,664 | 38,699 |
| 2 | 30,594 | 31,282 | 31,548 | 33,372 | 34,133 | 35,900 | 36,661 | 37,422 | 38,183 | 39,218 |
| 3 | 30,922 | 31,610 | 31,876 | 33,891 | 34,651 | 36,419 | 37,180 | 37,940 | 38,701 | 39,736 |
| 4 | 31,494 | 32,182 | 32,448 | 34,653 | 35,414 | 37,182 | 37,943 | 38,703 | 39,464 | 40,499 |
| 5 | 31,822 | 32,510 | 32,776 | 35,172 | 35,933 | 37,700 | 38,461 | 39,222 | 39,983 | 41,018 |
| 6 | 32,150 | 32,838 | 33,104 | 35,690 | 36,451 | 38,219 | 38,980 | 39,740 | 40,501 | 41,536 |
| 7 | 32,478 | 33,167 | 33,432 | 36,209 | 36,970 | 38,737 | 39,498 | 40,259 | 41,020 | 42,055 |
| 8 | 32,806 | 33,495 | 33,761 | 36,727 | 37,488 | 39,256 | 40,017 | 40,777 | 41,538 | 42,573 |
| 9 | 33,134 | 33,823 | 34,089 | 37,246 | 38,007 | 39,774 | 40,535 | 41,296 | 42,057 | 43,092 |
| 10 | 33,463 | 34,151 | 34,417 | 37,766 | 38,526 | 40,294 | 41,055 | 41,816 | 42,576 | 43,611 |

| | | | | | | | | | | |
|----|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 11 | 33,791 | 34,479 | 34,745 | 38,284 | 39,045 | 40,813 | 41,573 | 42,334 | 43,095 | 44,130 |
| 12 | 34,119 | 34,807 | 35,073 | 38,803 | 39,563 | 41,331 | 42,092 | 42,853 | 43,613 | 44,648 |
| 13 | 34,447 | 35,135 | 35,401 | 39,321 | 40,082 | 41,850 | 42,610 | 43,371 | 44,132 | 45,167 |
| 14 | 34,775 | 35,463 | 35,729 | 39,840 | 40,600 | 42,368 | 43,129 | 43,890 | 44,650 | 45,685 |
| 15 | 35,103 | 35,791 | 36,057 | 40,358 | 41,119 | 42,887 | 43,647 | 44,408 | 45,169 | 46,204 |
| 16 | 35,431 | 36,119 | 36,385 | 40,877 | 41,637 | 43,405 | 44,166 | 44,927 | 45,687 | 46,722 |
| 17 | 35,759 | 36,448 | 36,713 | 41,395 | 42,156 | 43,924 | 44,685 | 45,445 | 46,206 | 47,241 |
| 18 | 36,087 | 36,776 | 37,042 | 41,914 | 42,675 | 44,442 | 45,203 | 45,964 | 46,725 | 47,760 |
| 19 | 36,415 | 37,104 | 37,370 | 42,432 | 43,193 | 44,961 | 45,722 | 46,482 | 47,243 | 48,278 |
| 20 | 36,743 | 37,432 | 37,698 | 42,951 | 43,712 | 45,479 | 46,240 | 47,001 | 47,762 | 48,797 |
| 21 | 37,072 | 37,760 | 38,026 | 43,469 | 44,230 | 45,998 | 46,759 | 47,519 | 48,280 | 49,315 |
| 22 | 37,400 | 38,088 | 38,354 | 43,988 | 44,749 | 46,516 | 47,277 | 48,038 | 48,799 | 49,834 |
| 23 | 37,728 | 38,416 | 38,682 | 44,507 | 45,267 | 47,035 | 47,796 | 48,556 | 49,317 | 50,352 |
| 24 | 38,056 | 38,744 | 39,010 | 45,025 | 45,786 | 47,554 | 48,314 | 49,075 | 49,836 | 50,871 |
| 25 | 38,384 | 39,072 | 39,338 | 45,544 | 46,304 | 48,072 | 48,833 | 49,594 | 50,354 | 51,389 |
| 26 | 38,712 | 39,400 | 39,666 | 46,062 | 46,823 | 48,591 | 49,351 | 50,112 | 50,873 | 51,908 |
| 27 | 39,040 | 39,728 | 39,994 | 46,581 | 47,341 | 49,109 | 49,870 | 50,631 | 51,391 | 52,426 |
| 28 | 39,368 | 40,057 | 40,322 | 47,099 | 47,860 | 49,628 | 50,388 | 51,149 | 51,910 | 52,945 |
| 29 | 39,696 | 40,385 | 40,651 | 47,618 | 48,378 | 50,146 | 50,907 | 51,668 | 52,428 | 53,463 |
| 30 | 40,024 | 40,713 | 40,979 | 48,136 | 48,897 | 50,665 | 51,425 | 52,186 | 52,947 | 53,982 |
| 31 | 40,353 | 41,041 | 41,307 | 48,655 | 49,416 | 51,183 | 51,944 | 52,705 | 53,465 | 54,500 |
| 32 | 40,681 | 41,369 | 41,635 | 49,173 | 49,934 | 51,702 | 52,463 | 53,223 | 53,984 | 55,019 |
| 33 | 41,009 | 41,697 | 41,963 | 49,692 | 50,453 | 52,220 | 52,981 | 53,742 | 54,503 | 55,538 |
| 34 | 41,337 | 42,025 | 42,291 | 50,210 | 50,971 | 52,739 | 53,500 | 54,260 | 55,021 | 56,056 |
| 35 | 41,665 | 42,353 | 42,619 | 50,729 | 51,490 | 53,257 | 54,018 | 54,779 | 55,540 | 56,575 |

STATE MINIMUM SALARY SCHEDULE II

| <u>Years</u> | <u>4th</u> | <u>3rd</u> | <u>2nd</u> | <u>A.B.</u> | <u>A.B.</u> | <u>M.A.</u> | <u>M.A.</u> | <u>MA.</u> | <u>M.A.</u> | <u>Doc-</u> |
|--------------|-----------------------|-----------------------|-----------------------|-------------|-------------|-------------|-------------|------------|-------------|---------------|
| <u>Exp.</u> | <u>Class</u> | <u>Class</u> | <u>Class</u> | | <u>+15</u> | | <u>+15</u> | <u>+30</u> | <u>+45</u> | <u>torate</u> |

| | | | | | | | | | | |
|-----------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <u>0</u> | <u>32,057</u> | <u>32,746</u> | <u>33,012</u> | <u>34,455</u> | <u>35,216</u> | <u>36,983</u> | <u>37,744</u> | <u>38,505</u> | <u>39,266</u> | <u>40,301</u> |
| <u>1</u> | <u>32,385</u> | <u>33,074</u> | <u>33,340</u> | <u>34,973</u> | <u>35,734</u> | <u>37,502</u> | <u>38,263</u> | <u>39,023</u> | <u>39,784</u> | <u>40,819</u> |
| <u>2</u> | <u>32,714</u> | <u>33,402</u> | <u>33,668</u> | <u>35,492</u> | <u>36,253</u> | <u>38,020</u> | <u>38,781</u> | <u>39,542</u> | <u>40,303</u> | <u>41,338</u> |
| <u>3</u> | <u>33,042</u> | <u>33,730</u> | <u>33,996</u> | <u>36,011</u> | <u>36,771</u> | <u>38,539</u> | <u>39,300</u> | <u>40,060</u> | <u>40,821</u> | <u>41,856</u> |
| <u>4</u> | <u>33,614</u> | <u>34,302</u> | <u>34,568</u> | <u>36,773</u> | <u>37,534</u> | <u>39,302</u> | <u>40,063</u> | <u>40,823</u> | <u>41,584</u> | <u>42,619</u> |
| <u>5</u> | <u>33,942</u> | <u>34,630</u> | <u>34,896</u> | <u>37,292</u> | <u>38,053</u> | <u>39,820</u> | <u>40,581</u> | <u>41,342</u> | <u>42,103</u> | <u>43,138</u> |
| <u>6</u> | <u>34,270</u> | <u>34,958</u> | <u>35,224</u> | <u>37,810</u> | <u>38,571</u> | <u>40,339</u> | <u>41,100</u> | <u>41,860</u> | <u>42,621</u> | <u>43,656</u> |
| <u>7</u> | <u>34,598</u> | <u>35,287</u> | <u>35,552</u> | <u>38,329</u> | <u>39,090</u> | <u>40,857</u> | <u>41,618</u> | <u>42,379</u> | <u>43,140</u> | <u>44,175</u> |
| <u>8</u> | <u>34,926</u> | <u>35,615</u> | <u>35,881</u> | <u>38,847</u> | <u>39,608</u> | <u>41,376</u> | <u>42,137</u> | <u>42,897</u> | <u>43,658</u> | <u>44,693</u> |
| <u>9</u> | <u>35,254</u> | <u>35,943</u> | <u>36,209</u> | <u>39,366</u> | <u>40,127</u> | <u>41,894</u> | <u>42,655</u> | <u>43,416</u> | <u>44,177</u> | <u>45,212</u> |
| <u>10</u> | <u>35,583</u> | <u>36,271</u> | <u>36,537</u> | <u>39,886</u> | <u>40,646</u> | <u>42,414</u> | <u>43,175</u> | <u>43,936</u> | <u>44,696</u> | <u>45,731</u> |
| <u>11</u> | <u>35,911</u> | <u>36,599</u> | <u>36,865</u> | <u>40,404</u> | <u>41,165</u> | <u>42,933</u> | <u>43,693</u> | <u>44,454</u> | <u>45,215</u> | <u>46,250</u> |
| <u>12</u> | <u>36,239</u> | <u>36,927</u> | <u>37,193</u> | <u>40,923</u> | <u>41,683</u> | <u>43,451</u> | <u>44,212</u> | <u>44,973</u> | <u>45,733</u> | <u>46,768</u> |
| <u>13</u> | <u>36,567</u> | <u>37,255</u> | <u>37,521</u> | <u>41,441</u> | <u>42,202</u> | <u>43,970</u> | <u>44,730</u> | <u>45,491</u> | <u>46,252</u> | <u>47,287</u> |
| <u>14</u> | <u>36,895</u> | <u>37,583</u> | <u>37,849</u> | <u>41,960</u> | <u>42,720</u> | <u>44,488</u> | <u>45,249</u> | <u>46,010</u> | <u>46,770</u> | <u>47,805</u> |
| <u>15</u> | <u>37,223</u> | <u>37,911</u> | <u>38,177</u> | <u>42,478</u> | <u>43,239</u> | <u>45,007</u> | <u>45,767</u> | <u>46,528</u> | <u>47,289</u> | <u>48,324</u> |
| <u>16</u> | <u>37,551</u> | <u>38,239</u> | <u>38,505</u> | <u>42,997</u> | <u>43,757</u> | <u>45,525</u> | <u>46,286</u> | <u>47,047</u> | <u>47,807</u> | <u>48,842</u> |
| <u>17</u> | <u>37,879</u> | <u>38,568</u> | <u>38,833</u> | <u>43,515</u> | <u>44,276</u> | <u>46,044</u> | <u>46,805</u> | <u>47,565</u> | <u>48,326</u> | <u>49,361</u> |
| <u>18</u> | <u>38,207</u> | <u>38,896</u> | <u>39,162</u> | <u>44,034</u> | <u>44,795</u> | <u>46,562</u> | <u>47,323</u> | <u>48,084</u> | <u>48,845</u> | <u>49,880</u> |
| <u>19</u> | <u>38,535</u> | <u>39,224</u> | <u>39,490</u> | <u>44,552</u> | <u>45,313</u> | <u>47,081</u> | <u>47,842</u> | <u>48,602</u> | <u>49,363</u> | <u>50,398</u> |
| <u>20</u> | <u>38,863</u> | <u>39,552</u> | <u>39,818</u> | <u>45,071</u> | <u>45,832</u> | <u>47,599</u> | <u>48,360</u> | <u>49,121</u> | <u>49,882</u> | <u>50,917</u> |
| <u>21</u> | <u>39,192</u> | <u>39,880</u> | <u>40,146</u> | <u>45,589</u> | <u>46,350</u> | <u>48,118</u> | <u>48,879</u> | <u>49,639</u> | <u>50,400</u> | <u>51,435</u> |
| <u>22</u> | <u>39,520</u> | <u>40,208</u> | <u>40,474</u> | <u>46,108</u> | <u>46,869</u> | <u>48,636</u> | <u>49,397</u> | <u>50,158</u> | <u>50,919</u> | <u>51,954</u> |
| <u>23</u> | <u>39,848</u> | <u>40,536</u> | <u>40,802</u> | <u>46,627</u> | <u>47,387</u> | <u>49,155</u> | <u>49,916</u> | <u>50,676</u> | <u>51,437</u> | <u>52,472</u> |
| <u>24</u> | <u>40,176</u> | <u>40,864</u> | <u>41,130</u> | <u>47,145</u> | <u>47,906</u> | <u>49,674</u> | <u>50,434</u> | <u>51,195</u> | <u>51,956</u> | <u>52,991</u> |
| <u>25</u> | <u>40,504</u> | <u>41,192</u> | <u>41,458</u> | <u>47,664</u> | <u>48,424</u> | <u>50,192</u> | <u>50,953</u> | <u>51,714</u> | <u>52,474</u> | <u>53,509</u> |
| <u>26</u> | <u>40,832</u> | <u>41,520</u> | <u>41,786</u> | <u>48,182</u> | <u>48,943</u> | <u>50,711</u> | <u>51,471</u> | <u>52,232</u> | <u>52,993</u> | <u>54,028</u> |
| <u>27</u> | <u>41,160</u> | <u>41,848</u> | <u>42,114</u> | <u>48,701</u> | <u>49,461</u> | <u>51,229</u> | <u>51,990</u> | <u>52,751</u> | <u>53,511</u> | <u>54,546</u> |
| <u>28</u> | <u>41,488</u> | <u>42,177</u> | <u>42,442</u> | <u>49,219</u> | <u>49,980</u> | <u>51,748</u> | <u>52,508</u> | <u>53,269</u> | <u>54,030</u> | <u>55,065</u> |

| | | | | | | | | | | |
|-----------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <u>29</u> | <u>41,816</u> | <u>42,505</u> | <u>42,771</u> | <u>49,738</u> | <u>50,498</u> | <u>52,266</u> | <u>53,027</u> | <u>53,788</u> | <u>54,548</u> | <u>55,583</u> |
| <u>30</u> | <u>42,144</u> | <u>42,833</u> | <u>43,099</u> | <u>50,256</u> | <u>51,017</u> | <u>52,785</u> | <u>53,545</u> | <u>54,306</u> | <u>55,067</u> | <u>56,102</u> |
| <u>31</u> | <u>42,473</u> | <u>43,161</u> | <u>43,427</u> | <u>50,775</u> | <u>51,536</u> | <u>53,303</u> | <u>54,064</u> | <u>54,825</u> | <u>55,585</u> | <u>56,620</u> |
| <u>32</u> | <u>42,801</u> | <u>43,489</u> | <u>43,755</u> | <u>51,293</u> | <u>52,054</u> | <u>53,822</u> | <u>54,583</u> | <u>55,343</u> | <u>56,104</u> | <u>57,139</u> |
| <u>33</u> | <u>43,129</u> | <u>43,817</u> | <u>44,083</u> | <u>51,812</u> | <u>52,573</u> | <u>54,340</u> | <u>55,101</u> | <u>55,862</u> | <u>56,623</u> | <u>57,658</u> |
| <u>34</u> | <u>43,457</u> | <u>44,145</u> | <u>44,411</u> | <u>52,330</u> | <u>53,091</u> | <u>54,859</u> | <u>55,620</u> | <u>56,380</u> | <u>57,141</u> | <u>58,176</u> |
| <u>35</u> | <u>43,785</u> | <u>44,473</u> | <u>44,739</u> | <u>52,849</u> | <u>53,610</u> | <u>55,377</u> | <u>56,138</u> | <u>56,899</u> | <u>57,660</u> | <u>58,695</u> |

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) Effective July 1, 2019, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (b) of this section.

(e) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (b) of this section.

~~(d) (f) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code,~~ In accordance with §18A-4-5 of this code, each teacher shall be paid ~~an equity~~ the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For “2nd Class” at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For “A. B.” at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For “A. B. + 15” at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For “M. A.” at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M. A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M. A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M. A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-5. ~~Salary equity among the counties;~~ sState salary supplement.

~~(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be~~

~~calculated using the average of the professional educator salary schedules, degree classifications B. A. through doctorate and the years of experience provided in the most recent state minimum salary schedule for teachers, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades A through H and the years of experience provided in the most recent state minimum pay scale pay grade for service personnel, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties.~~

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, et seq. of this code. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county's specific characteristics, and ensures that all counties are provided equitable funding.

(b) The Legislature further finds that the purpose of the public school support program is not to deter counties from growing economically or from using county resources in a manner that best meets their specific educational needs and the desires of their citizens. To that end, counties must have the discretion and flexibility to use local county funds, not otherwise factored into the public school support program, to provide the best education possible to their students, including, but not limited to, providing salary supplements to teachers.

~~(b)(c) To meet the objective of salary equity among the counties, as defined in subsection (a) of this section, on and after July 1, 1984, subject~~ Subject ~~to available state appropriations and the conditions set forth herein, each teacher and school service personnel shall receive an equity~~ a supplement amount as specified in sections two and eight-a §18A-4-2 and §18A-4-8a of this code, respectively, of this article in addition to the amount from the state minimum salary

schedules provided in those sections. State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with §18-9A-1 et seq. of this code. The amount allocated for this supplement shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this code.

~~(c) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-a, chapter eighteen of this code. The amount allocated for salary equity shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under sections four, five and eight, article nine-a, chapter eighteen of this code. In the event the Department of Education determines that the objective of salary equity among the counties has not been met, it shall include in its budget request for the public school support plan for the next school year a request for funding sufficient to meet the objective of salary equity through an across-the-board increase in the equity supplement amount of the affected class of employees.~~

(d) Pursuant to this section, each teacher and service person shall receive from state funds the equity supplement amount indicated in ~~subsection (c) section two and subsection (f), section eight-a of this article~~ §18A-4-2(f) and §18A-4-8a(f) of this code, as applicable, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on January 1, 1984.

(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after January 1, 1984: *Provided*, That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may reduce any salary supplement that was in effect on January 1, 1984, except as permitted by §18-4-5a and §18-4-5b of this code.

(f) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

§18A-4-5a. County salary supplements for teachers.

(a) County boards of education in fixing the salaries of teachers shall use at least the state minimum salaries established under the provisions of this article. The board may establish salary schedules which shall be in excess of the state minimums fixed by this article, such county schedules to be uniform throughout the county as to the classification of training, experience, responsibility and other requirements subject to the following:

(1) Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools; ~~and they~~

(2) Counties may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day. ~~Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county: *Provided, That in*~~

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other

title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules authorized in subsection (a) of this section,
~~no county shall~~ a county may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the State Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

§18A-4-7a. Employment, promotion, and transfer of professional personnel; ~~seniority~~ qualifications.

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the ~~applicants~~ applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an ~~applicants~~ applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of §29A-3B-1 *et seq.* of this code to implement and interpret the provisions of this section. The rule may provide for a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: *Provided*, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) If two or more employees with the same certification establish an identical seniority date as a result of initial employment as a regular teacher on or after July 1, 2019, the priority between these employees shall be determined by a random selection system established by the employees and approved by the county board. A board shall conduct the random selection within 30 days of the time the employees with the same certification establish an identical seniority date. All employees with an identical seniority date and the same certification shall participate in the

59 random selection. As long as the affected employees hold the identical seniority date within a
60 certification, the initial random selection conducted by the board shall be permanent for the
61 duration of the employment of the employees by the board.

62 (h) (i) Upon completion of 133 days of employment in any one school year, substitute
63 teachers, except retired teachers and other retired professional educators employed as
64 substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a
65 permanent, full-time professional employee. One hundred thirty-three days or more of said
66 employment shall be prorated and shall vest as a fraction of the school year worked by the
67 permanent, full-time teacher.

68 (i) (j) Guidance counselors and all other professional employees, as defined in §18A-1-1
69 of this code, except classroom teachers, shall gain seniority in their nonteaching area of
70 professional employment on the basis of the length of time the employee has been employed by
71 the county board of education in that area: *Provided*, That if an employee is certified as a
72 classroom teacher, the employee accrues classroom teaching seniority for the time that employee
73 is employed in another professional area. For the purposes of accruing seniority under this
74 ~~paragraph~~ subsection, employment as principal, supervisor or central office administrator, as
75 defined in §18A-1-1 of this code, shall be considered one area of employment.

76 (j) (k) Employment for a full employment term equals one year of seniority, but an
77 employee may not accrue more than one year of seniority during any given fiscal year.
78 Employment for less than the full employment term shall be prorated. ~~A random selection system~~
79 ~~established by the employees and approved by the county board shall be used to determine the~~
80 ~~priority if two or more employees accumulate identical seniority: *Provided*, That when two or more~~
81 ~~principals have accumulated identical seniority~~

82 (l) All decisions on reductions in force shall be based on qualifications as set forth in a
83 county board policy. Furthermore, for the purposes of this subsection and subsections (m) through

(t), inclusive, of this section, the word “qualifications” means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent those qualifications are set forth in county board policy: *Provided*, That in defining the word “qualifications” in its policy, the county board:

(1) Shall consider including the following criteria:

(A) Seniority;

(B) Appropriate certification, licensure, or both;

(C) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(D) The amount of course work, degree level, or both in the relevant field and degree level generally;

(E) Academic achievement;

(F) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(G) Specialized training relevant to performing the duties of the job;

(H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(I) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(J) In the case of transfer or recall to a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(K) In the case of transfer or recall to a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code

109 by the faculty senate of the school at which the employee will be performing a majority of his or
110 her duties;

111 (2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent
112 they are included in the county board policy only after considering personnel whose last
113 performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as
114 applicable, is less than satisfactory; and

115 (3) May not include salary as one of the criteria in the definition.

116 ~~(k)~~ (m) Whenever a county board is required to reduce the number of professional
117 personnel in its employment, the employee ~~with the least amount of seniority~~ who is least
118 qualified, as set forth in county board policy, shall be properly notified and released from
119 employment pursuant to ~~the provisions of §18A-2-2 of this code. The provisions of this subsection~~
120 ~~are~~ This subsection is subject to the following:

121 (1) All persons employed in a certification area to be reduced who are employed under a
122 temporary permit shall be properly notified and released before a fully certified employee in such
123 a position is subject to release;

124 (2) Notwithstanding any provision of this code to the contrary, for any vacancy in an
125 established, existing or newly created position that, on or before March 1, is known to exist for
126 the ensuing school year, upon recommendation of the superintendent, the board shall appoint the
127 successful applicant from among all qualified applicants. All employees subject to release shall
128 be considered applicants for the positions for which they are qualified and shall be considered
129 before posting such vacancies for application by nonemployees;

130 (3) An employee subject to release shall be employed in any other professional position
131 where the employee is certified and was previously employed or to any lateral area for which the
132 employee is certified, licensed or both: ~~if the employee's seniority is greater than the seniority of~~

~~any other employee in that area of certification, licensure or both~~ Provided, That the employee is the most qualified person for that position;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the ~~employees seniority~~ employee's qualifications are greater than the ~~seniority~~ qualifications of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee ~~with the least seniority~~ who is least qualified in any of those areas of certification, licensure or both; and

(5) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and ~~higher seniority~~ has greater qualifications, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

~~(f)~~ (n) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in §18A-1-1 of this code shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board ~~shall~~ may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both; ~~and~~ along with the days in the period of employment.

~~(m)~~ (o) All professional personnel whose ~~seniority~~ lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county

board during a reduction in workforce shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of ~~seniority~~ qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater ~~seniority~~, ~~are qualified~~ qualifications apply for and accept the position.

~~(n) (p) Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both. The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.~~

~~(e) (g)~~ Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may ~~post~~ repost an opening for a classroom teacher ~~one additional time~~ after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy may be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within 30 working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein may prevent the county board of education from eliminating a position due to lack of need.

~~(p)~~ (r) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned

to grade levels for which they are certified without that position being posted: *Provided*, That the employee and the county board mutually agree to the reassignment.

~~(q)~~ (s) Reductions in classroom teaching positions in elementary schools shall be determined pursuant to the considerations set forth in county board policy and processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of ~~seniority~~ qualifications with the least ~~senior~~ qualified classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least ~~senior~~ qualified employee in the school is not in that grade level, the least ~~senior~~ qualified classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least ~~senior~~ qualified classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

~~(r)~~ (t) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

~~(s)~~ The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.

~~(t)~~ (u) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a

235 classroom teacher assigned to the school may at any time be assigned to a new or existing
 236 classroom teacher position at the school without the position being posted.

237 (v) All personnel in a public charter school shall continue to accrue seniority in the same
 238 manner that they would accrue seniority if employed in a noncharter public school in the county
 239 for the purpose of employment in noncharter public schools.

§18A-4-8a. Service personnel minimum monthly salaries.

1 (a) The minimum monthly pay for each service employee shall be as follows:

2 (1) For school year 2018–2019, ~~and continuing thereafter~~, the minimum monthly pay for
 3 each service employee whose employment is for a period of more than three and one-half hours
 4 a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade
 5 Schedule I and the minimum monthly pay for each service employee whose employment is for a
 6 period of three and one-half hours or less a day shall be at least one-half the amount indicated in
 7 the State Minimum Pay Scale Pay Grade Schedule I set forth in this subdivision: Provided, That
 8 for school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service
 9 employee whose employment is for a period of more than three and one-half hours a day shall
 10 be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule II and the
 11 minimum monthly pay for each service employee whose employment is for a period of three and
 12 one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum
 13 Pay Scale Pay Grade Schedule II set forth in this subdivision.

14 STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE I

| Years | PAY GRADE | | | | | | | |
|-------|-----------|-------|-------|-------|-------|-------|-------|-------|
| Exp. | A | B | C | D | E | F | G | H |
| 0 | 1,770 | 1,791 | 1,833 | 1,886 | 1,939 | 2,002 | 2,034 | 2,107 |

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| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 1 | 1,802 | 1,824 | 1,865 | 1,918 | 1,972 | 2,035 | 2,066 | 2,140 |
| 2 | 1,835 | 1,856 | 1,898 | 1,951 | 2,004 | 2,067 | 2,099 | 2,172 |
| 3 | 1,867 | 1,889 | 1,931 | 1,984 | 2,037 | 2,100 | 2,132 | 2,205 |
| 4 | 1,900 | 1,922 | 1,963 | 2,016 | 2,069 | 2,133 | 2,164 | 2,239 |
| 5 | 1,933 | 1,954 | 1,996 | 2,049 | 2,102 | 2,165 | 2,197 | 2,271 |
| 6 | 1,965 | 1,987 | 2,030 | 2,082 | 2,135 | 2,198 | 2,230 | 2,304 |
| 7 | 1,999 | 2,019 | 2,062 | 2,114 | 2,167 | 2,231 | 2,262 | 2,337 |
| 8 | 2,032 | 2,052 | 2,095 | 2,147 | 2,200 | 2,263 | 2,295 | 2,369 |
| 9 | 2,064 | 2,085 | 2,128 | 2,181 | 2,233 | 2,296 | 2,327 | 2,402 |
| 10 | 2,097 | 2,118 | 2,160 | 2,213 | 2,265 | 2,330 | 2,361 | 2,435 |
| 11 | 2,130 | 2,151 | 2,193 | 2,246 | 2,298 | 2,362 | 2,394 | 2,467 |
| 12 | 2,162 | 2,184 | 2,225 | 2,279 | 2,332 | 2,395 | 2,426 | 2,500 |
| 13 | 2,195 | 2,216 | 2,258 | 2,311 | 2,364 | 2,427 | 2,459 | 2,533 |
| 14 | 2,228 | 2,249 | 2,291 | 2,344 | 2,397 | 2,460 | 2,492 | 2,565 |
| 15 | 2,260 | 2,282 | 2,323 | 2,376 | 2,429 | 2,493 | 2,524 | 2,598 |
| 16 | 2,293 | 2,314 | 2,356 | 2,409 | 2,462 | 2,525 | 2,557 | 2,631 |
| 17 | 2,325 | 2,347 | 2,390 | 2,442 | 2,495 | 2,558 | 2,590 | 2,664 |
| 18 | 2,358 | 2,380 | 2,422 | 2,474 | 2,527 | 2,591 | 2,622 | 2,697 |
| 19 | 2,392 | 2,412 | 2,455 | 2,507 | 2,560 | 2,623 | 2,655 | 2,729 |
| 20 | 2,424 | 2,445 | 2,488 | 2,541 | 2,593 | 2,656 | 2,688 | 2,763 |
| 21 | 2,457 | 2,477 | 2,520 | 2,573 | 2,625 | 2,689 | 2,720 | 2,797 |
| 22 | 2,490 | 2,511 | 2,553 | 2,606 | 2,658 | 2,722 | 2,754 | 2,829 |
| 23 | 2,522 | 2,544 | 2,586 | 2,639 | 2,692 | 2,756 | 2,788 | 2,863 |
| 24 | 2,555 | 2,576 | 2,618 | 2,671 | 2,724 | 2,790 | 2,821 | 2,897 |
| 25 | 2,588 | 2,609 | 2,651 | 2,704 | 2,758 | 2,822 | 2,855 | 2,929 |
| 26 | 2,620 | 2,642 | 2,683 | 2,738 | 2,792 | 2,856 | 2,887 | 2,963 |
| 27 | 2,653 | 2,674 | 2,716 | 2,770 | 2,824 | 2,888 | 2,921 | 2,996 |
| 28 | 2,686 | 2,707 | 2,750 | 2,804 | 2,858 | 2,922 | 2,955 | 3,030 |
| 29 | 2,718 | 2,741 | 2,783 | 2,836 | 2,891 | 2,956 | 2,987 | 3,064 |
| 30 | 2,752 | 2,773 | 2,817 | 2,870 | 2,924 | 2,988 | 3,021 | 3,097 |
| 31 | 2,785 | 2,807 | 2,851 | 2,904 | 2,958 | 3,022 | 3,055 | 3,130 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 32 | 2,819 | 2,840 | 2,883 | 2,937 | 2,990 | 3,056 | 3,087 | 3,164 |
| 33 | 2,853 | 2,873 | 2,917 | 2,971 | 3,024 | 3,088 | 3,121 | 3,197 |
| 34 | 2,885 | 2,907 | 2,951 | 3,005 | 3,058 | 3,122 | 3,155 | 3,230 |
| 35 | 2,919 | 2,941 | 2,983 | 3,037 | 3,090 | 3,156 | 3,188 | 3,264 |
| 36 | 2,953 | 2,974 | 3,017 | 3,071 | 3,125 | 3,189 | 3,222 | 3,296 |
| 37 | 2,985 | 3,008 | 3,051 | 3,105 | 3,159 | 3,223 | 3,255 | 3,330 |
| 38 | 3,019 | 3,040 | 3,083 | 3,137 | 3,191 | 3,256 | 3,288 | 3,364 |
| 39 | 3,053 | 3,074 | 3,117 | 3,171 | 3,225 | 3,289 | 3,322 | 3,396 |
| 40 | 3,085 | 3,108 | 3,150 | 3,204 | 3,259 | 3,323 | 3,355 | 3,430 |

15

16

STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE IIYearsExp.PAY GRADE

| | <u>A</u> | <u>B</u> | <u>C</u> | <u>D</u> | <u>E</u> | <u>F</u> | <u>G</u> | <u>H</u> |
|-----------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <u>0</u> | <u>1,885</u> | <u>1,906</u> | <u>1,948</u> | <u>2,001</u> | <u>2,054</u> | <u>2,117</u> | <u>2,149</u> | <u>2,222</u> |
| <u>1</u> | <u>1,917</u> | <u>1,939</u> | <u>1,980</u> | <u>2,033</u> | <u>2,087</u> | <u>2,150</u> | <u>2,181</u> | <u>2,255</u> |
| <u>2</u> | <u>1,950</u> | <u>1,971</u> | <u>2,013</u> | <u>2,066</u> | <u>2,119</u> | <u>2,182</u> | <u>2,214</u> | <u>2,287</u> |
| <u>3</u> | <u>1,982</u> | <u>2,004</u> | <u>2,046</u> | <u>2,099</u> | <u>2,152</u> | <u>2,215</u> | <u>2,247</u> | <u>2,320</u> |
| <u>4</u> | <u>2,015</u> | <u>2,037</u> | <u>2,078</u> | <u>2,131</u> | <u>2,184</u> | <u>2,248</u> | <u>2,279</u> | <u>2,354</u> |
| <u>5</u> | <u>2,048</u> | <u>2,069</u> | <u>2,111</u> | <u>2,164</u> | <u>2,217</u> | <u>2,280</u> | <u>2,312</u> | <u>2,386</u> |
| <u>6</u> | <u>2,080</u> | <u>2,102</u> | <u>2,145</u> | <u>2,197</u> | <u>2,250</u> | <u>2,313</u> | <u>2,345</u> | <u>2,419</u> |
| <u>7</u> | <u>2,114</u> | <u>2,134</u> | <u>2,177</u> | <u>2,229</u> | <u>2,282</u> | <u>2,346</u> | <u>2,377</u> | <u>2,452</u> |
| <u>8</u> | <u>2,147</u> | <u>2,167</u> | <u>2,210</u> | <u>2,262</u> | <u>2,315</u> | <u>2,378</u> | <u>2,410</u> | <u>2,484</u> |
| <u>9</u> | <u>2,179</u> | <u>2,200</u> | <u>2,243</u> | <u>2,296</u> | <u>2,348</u> | <u>2,411</u> | <u>2,442</u> | <u>2,517</u> |
| <u>10</u> | <u>2,212</u> | <u>2,233</u> | <u>2,275</u> | <u>2,328</u> | <u>2,380</u> | <u>2,445</u> | <u>2,476</u> | <u>2,550</u> |
| <u>11</u> | <u>2,245</u> | <u>2,266</u> | <u>2,308</u> | <u>2,361</u> | <u>2,413</u> | <u>2,477</u> | <u>2,509</u> | <u>2,582</u> |
| <u>12</u> | <u>2,277</u> | <u>2,299</u> | <u>2,340</u> | <u>2,394</u> | <u>2,447</u> | <u>2,510</u> | <u>2,541</u> | <u>2,615</u> |
| <u>13</u> | <u>2,310</u> | <u>2,331</u> | <u>2,373</u> | <u>2,426</u> | <u>2,479</u> | <u>2,542</u> | <u>2,574</u> | <u>2,648</u> |
| <u>14</u> | <u>2,343</u> | <u>2,364</u> | <u>2,406</u> | <u>2,459</u> | <u>2,512</u> | <u>2,575</u> | <u>2,607</u> | <u>2,680</u> |
| <u>15</u> | <u>2,375</u> | <u>2,397</u> | <u>2,438</u> | <u>2,491</u> | <u>2,544</u> | <u>2,608</u> | <u>2,639</u> | <u>2,713</u> |

| | | | | | | | | |
|-----------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <u>16</u> | <u>2,408</u> | <u>2,429</u> | <u>2,471</u> | <u>2,524</u> | <u>2,577</u> | <u>2,640</u> | <u>2,672</u> | <u>2,746</u> |
| <u>17</u> | <u>2,440</u> | <u>2,462</u> | <u>2,505</u> | <u>2,557</u> | <u>2,610</u> | <u>2,673</u> | <u>2,705</u> | <u>2,779</u> |
| <u>18</u> | <u>2,473</u> | <u>2,495</u> | <u>2,537</u> | <u>2,589</u> | <u>2,642</u> | <u>2,706</u> | <u>2,737</u> | <u>2,812</u> |
| <u>19</u> | <u>2,507</u> | <u>2,527</u> | <u>2,570</u> | <u>2,622</u> | <u>2,675</u> | <u>2,738</u> | <u>2,770</u> | <u>2,844</u> |
| <u>20</u> | <u>2,539</u> | <u>2,560</u> | <u>2,603</u> | <u>2,656</u> | <u>2,708</u> | <u>2,771</u> | <u>2,803</u> | <u>2,878</u> |
| <u>21</u> | <u>2,572</u> | <u>2,592</u> | <u>2,635</u> | <u>2,688</u> | <u>2,740</u> | <u>2,804</u> | <u>2,835</u> | <u>2,912</u> |
| <u>22</u> | <u>2,605</u> | <u>2,626</u> | <u>2,668</u> | <u>2,721</u> | <u>2,773</u> | <u>2,837</u> | <u>2,869</u> | <u>2,944</u> |
| <u>23</u> | <u>2,637</u> | <u>2,659</u> | <u>2,701</u> | <u>2,754</u> | <u>2,807</u> | <u>2,871</u> | <u>2,903</u> | <u>2,978</u> |
| <u>24</u> | <u>2,670</u> | <u>2,691</u> | <u>2,733</u> | <u>2,786</u> | <u>2,839</u> | <u>2,905</u> | <u>2,936</u> | <u>3,012</u> |
| <u>25</u> | <u>2,703</u> | <u>2,724</u> | <u>2,766</u> | <u>2,819</u> | <u>2,873</u> | <u>2,937</u> | <u>2,970</u> | <u>3,044</u> |
| <u>26</u> | <u>2,735</u> | <u>2,757</u> | <u>2,798</u> | <u>2,853</u> | <u>2,907</u> | <u>2,971</u> | <u>3,002</u> | <u>3,078</u> |
| <u>27</u> | <u>2,768</u> | <u>2,789</u> | <u>2,831</u> | <u>2,885</u> | <u>2,939</u> | <u>3,003</u> | <u>3,036</u> | <u>3,111</u> |
| <u>28</u> | <u>2,801</u> | <u>2,822</u> | <u>2,865</u> | <u>2,919</u> | <u>2,973</u> | <u>3,037</u> | <u>3,070</u> | <u>3,145</u> |
| <u>29</u> | <u>2,833</u> | <u>2,856</u> | <u>2,898</u> | <u>2,951</u> | <u>3,006</u> | <u>3,071</u> | <u>3,102</u> | <u>3,179</u> |
| <u>30</u> | <u>2,867</u> | <u>2,888</u> | <u>2,932</u> | <u>2,985</u> | <u>3,039</u> | <u>3,103</u> | <u>3,136</u> | <u>3,212</u> |
| <u>31</u> | <u>2,900</u> | <u>2,922</u> | <u>2,966</u> | <u>3,019</u> | <u>3,073</u> | <u>3,137</u> | <u>3,170</u> | <u>3,245</u> |
| <u>32</u> | <u>2,934</u> | <u>2,955</u> | <u>2,998</u> | <u>3,052</u> | <u>3,105</u> | <u>3,171</u> | <u>3,202</u> | <u>3,279</u> |
| <u>33</u> | <u>2,968</u> | <u>2,988</u> | <u>3,032</u> | <u>3,086</u> | <u>3,139</u> | <u>3,203</u> | <u>3,236</u> | <u>3,312</u> |
| <u>34</u> | <u>3,000</u> | <u>3,022</u> | <u>3,066</u> | <u>3,120</u> | <u>3,173</u> | <u>3,237</u> | <u>3,270</u> | <u>3,345</u> |
| <u>35</u> | <u>3,034</u> | <u>3,056</u> | <u>3,098</u> | <u>3,152</u> | <u>3,205</u> | <u>3,271</u> | <u>3,303</u> | <u>3,379</u> |
| <u>36</u> | <u>3,068</u> | <u>3,089</u> | <u>3,132</u> | <u>3,186</u> | <u>3,240</u> | <u>3,304</u> | <u>3,337</u> | <u>3,411</u> |
| <u>37</u> | <u>3,100</u> | <u>3,123</u> | <u>3,166</u> | <u>3,220</u> | <u>3,274</u> | <u>3,338</u> | <u>3,370</u> | <u>3,445</u> |
| <u>38</u> | <u>3,134</u> | <u>3,155</u> | <u>3,198</u> | <u>3,252</u> | <u>3,306</u> | <u>3,371</u> | <u>3,403</u> | <u>3,479</u> |
| <u>39</u> | <u>3,168</u> | <u>3,189</u> | <u>3,232</u> | <u>3,286</u> | <u>3,340</u> | <u>3,404</u> | <u>3,437</u> | <u>3,511</u> |
| <u>40</u> | <u>3,200</u> | <u>3,223</u> | <u>3,265</u> | <u>3,319</u> | <u>3,374</u> | <u>3,438</u> | <u>3,470</u> | <u>3,545</u> |

17

18 (2) Each service employee shall receive the amount prescribed in the State Minimum Pay

19 Scale Pay Grade in accordance with the provisions of this subsection according to their class title

20 and pay grade as set forth in this subdivision:

| 21 | CLASS TITLE | PAY GRADE |
|----|-----------------------------------|-----------|
| 22 | Accountant I | D |
| 23 | Accountant II | E |
| 24 | Accountant III | F |
| 25 | Accounts Payable Supervisor | G |
| 26 | Aide I | A |
| 27 | Aide II | B |
| 28 | Aide III | C |
| 29 | Aide IV | D |
| 30 | Audiovisual Technician | C |
| 31 | Auditor | G |
| 32 | Autism Mentor | F |
| 33 | Braille Specialist | E |
| 34 | Bus Operator | D |
| 35 | Buyer | F |
| 36 | Cabinetmaker | G |
| 37 | Cafeteria Manager | D |
| 38 | Carpenter I | E |
| 39 | Carpenter II | F |
| 40 | Chief Mechanic | G |
| 41 | <u>B</u> Clerk I | B |
| 42 | Clerk II | C |
| 43 | Computer Operator | E |
| 44 | Cook I | A |
| 45 | Cook II | B |
| 46 | Cook III | C |
| 47 | Crew Leader | F |
| 48 | Custodian I | A |
| 49 | Custodian II | B |
| 50 | Custodian III | C |

| | | |
|----|---|---|
| 51 | Custodian IV | D |
| 52 | Director or Coordinator of Services | H |
| 53 | Draftsman | D |
| 54 | Early Childhood Classroom Assistant Teacher I | E |
| 55 | Early Childhood Classroom Assistant Teacher II | E |
| 56 | Early Childhood Classroom Assistant Teacher III | F |
| 57 | Educational Sign Language Interpreter I | F |
| 58 | Educational Sign Language Interpreter II | G |
| 59 | Electrician I | F |
| 60 | Electrician II | G |
| 61 | Electronic Technician I | F |
| 62 | Electronic Technician II | G |
| 63 | Executive Secretary | G |
| 64 | Food Services Supervisor | G |
| 65 | Foreman | G |
| 66 | General Maintenance | C |
| 67 | Glazier | D |
| 68 | Graphic Artist | D |
| 69 | Groundsman | B |
| 70 | Handyman | B |
| 71 | Heating and Air Conditioning Mechanic I | E |
| 72 | Heating and Air Conditioning Mechanic II | G |
| 73 | Heavy Equipment Operator | E |
| 74 | Inventory Supervisor | D |
| 75 | Key Punch Operator | B |
| 76 | Licensed Practical Nurse | F |
| 77 | Locksmith | G |
| 78 | Lubrication Man | C |
| 79 | Machinist | F |
| 80 | Mail Clerk | D |

| | | |
|-----|---|---|
| 81 | Maintenance Clerk | C |
| 82 | Mason | G |
| 83 | Mechanic | F |
| 84 | Mechanic Assistant | E |
| 85 | Office Equipment Repairman I | F |
| 86 | Office Equipment Repairman II | G |
| 87 | Painter | E |
| 88 | Paraprofessional | F |
| 89 | Payroll Supervisor | G |
| 90 | Plumber I | E |
| 91 | Plumber II | G |
| 92 | Printing Operator | B |
| 93 | Printing Supervisor | D |
| 94 | Programmer | H |
| 95 | Roofing/Sheet Metal Mechanic | F |
| 96 | Sanitation Plant Operator | G |
| 97 | School Bus Supervisor | E |
| 98 | Secretary I | D |
| 99 | Secretary II | E |
| 100 | Secretary III | F |
| 101 | Sign Support Specialist | E |
| 102 | Supervisor of Maintenance | H |
| 103 | Supervisor of Transportation | H |
| 104 | Switchboard Operator-Receptionist | D |
| 105 | Truck Driver | D |
| 106 | Warehouse Clerk | C |
| 107 | Watchman | B |
| 108 | Welder | F |
| 109 | WVEIS Data Entry and Administrative Clerk | B |

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) ~~To meet the objective of salary equity among the counties,~~ Each service person is paid ~~an equity~~ a supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional

hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular

employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.

(a) *Personal Leave.*

(1) At the beginning of the employment term, any full-time employee of a county board is entitled annually to at least one and one-half days personal leave for each employment month or major fraction thereof in the employee's employment term. Unused leave shall be accumulative without limitation and is transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

(2) A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, or other cause authorized or approved by the board, shall be paid the full salary

from his or her regular budgeted salary appropriation during the period which the employee is absent, but not to exceed the total amount of leave to which the employee is entitled.

(3) Each employee is permitted to use three days of leave annually without regard to the cause for the absence: Provided, That effective July 1, 2019, each employee is permitted to use four days of leave annually without regard to the cause for the absence. Personal leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate. The employee shall give notice of leave without cause to the principal or immediate supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term. If an employee uses personal leave which the employee has not yet accumulated on a monthly basis and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the

employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) *Leave Banks.*

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to §5-16-13 of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

61 (ii) Is not deducted from the personal leave days without cause to which a donor employee
62 is entitled if sufficient general personal leave days are otherwise available to the donor employee;

63 (iii) Is credited to the receiving employee as one full personal leave day;

64 (iv) May not be credited for more or less than a full day by calculating the value of the
65 leave according to the hourly wage of each employee; and

66 (v) May be used only for an absence due to the purpose for which the leave was
67 transferred. Any transferred days remaining when the catastrophic medical emergency ends
68 revert back to the leave bank.

69 (3) The administration, subject to county board approval, may use its discretion as to the
70 need for a substitute where limited absence may prevail, when an allowable absence does not:

71 (i) Directly affect the instruction of the students; or

72 (ii) Require a substitute employee because of the nature of the work and the duration of
73 the cause for the absence.

74 (4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of
75 substitutes for meeting the provisions of this section, the remainder shall be paid on or before the
76 August 31 from the budget of the next fiscal year.

77 (5) A county board may supplement the leave provisions in any manner it considers
78 advisable in accordance with applicable rules of the state Board and the provisions of this chapter
79 and chapter 18 of this code.

1 (c) Effective July 1, 2019, a classroom teacher who has not utilized more than four days
2 of personal leave during the 200-day employment term shall receive a bonus of \$500 at the end
3 of the school year. If the appropriations to the Department of Education for this purpose are
4 insufficient to compensate all applicable classroom teachers, the Department of Education shall
5 request a supplemental appropriation in an amount sufficient to compensate all eligible classroom
6 teachers. This bonus may not be counted as part of the final average salary for the purpose of
7 calculating retirement.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 4. UNDERWOOD-SMITH ~~TEACHER SCHOLARSHIP~~ TEACHING SCHOLARS PROGRAM.

§18C-4-1. ~~Scholarship and loan assistance fund~~ Underwood-Smith Teaching Scholars Program Fund created; purposes; funding; effective date.

(a) It is the purpose of this article and §18C-4A-1 *et seq.* of this code to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers in critical shortage fields at the ~~preschool~~ elementary, middle or secondary levels in the public schools of this state. ~~In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter~~ Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected ~~subject and geographic areas of critical need~~ critical teacher shortage fields.

(b) In consultation with the State Board of Education and the State Superintendent of Schools, the commission shall propose legislative rules in accordance with the provisions of §29A-3A-1 *et seq.* of this code. The rules shall provide for the administration of the Underwood-Smith ~~Teacher Scholarship and Loan Assistance programs~~ Teaching Scholars Program and the Teacher Education Loan Repayment Program by the Vice Chancellor for Administration in furtherance of the purposes of this article, and §18C-4A-1 *et seq.* of this code including, but not limited to, the following:

- (1) Establishing scholarship selection criteria and procedures;
- (2) Establishing criteria and procedures for identifying ~~subject areas public schools or geographic areas in critical need of teachers~~ critical teacher shortage fields;

(3) Establishing and updating as necessary a list of critical teacher shortage fields in the public schools for which scholarships are available;

(4) Requiring scholarship recipients to teach in a public school in this state at the elementary, middle or secondary level in a critical teacher shortage field pursuant to the provisions of §18C-4-3 of this code;

(5) Awarding loan repayment assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching ~~in an area of critical need in a~~ critical teacher shortage field;

~~(4)~~ (6) Determining eligibility for loan repayment assistance renewal;

~~(5)~~ (7) Establishing procedures ensuring that loan repayment assistance funds are paid directly to the proper lending entity; ~~and~~

~~(6)~~ (8) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

~~(7)~~ (9) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field beginning with the freshman year and continuing through degree completion and the teaching obligation.

~~(d) There is created in the State Treasury a special revolving fund in the State Treasury to be known as The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-Smith Teaching Scholars Program Fund. The fund shall~~ ~~to~~ be administered by the Vice Chancellor for Administration solely for granting scholarships and loan repayment assistance to teachers and prospective teachers in accordance with this article and §18C-4A-1 *et seq.* of this code. Any moneys which may be appropriated by the Legislature, or received by the Vice

Chancellor for Administration from other sources, for the purposes of this article and §18C-4A-1 *et seq.* of this code shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the Vice Chancellor for Administration by reason of default of a scholarship or loan repayment assistance agreement under this article or §18C-4A-1 *et seq.* of this code also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

~~(d)~~ (e) The Vice Chancellor for Administration may accept and expend any gift, grant, contribution, bequest, endowment, or other money for the purposes of this article and §18C-4A-1 *et seq.* of this code and shall make a reasonable effort to encourage external support for the scholarship and loan repayment assistance programs.

~~(e)~~ (f) For the purpose of encouraging support for the scholarship and loan repayment assistance programs from private sources, the Vice Chancellor for Administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars Program and loan repayment assistance awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.

(g) In recognition of the high academic achievement necessary to receive an award under this article, each recipient shall be distinguished as an "Underwood-Smith Teaching Scholar" in a manner befitting the distinction as determined by the commission.

(h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 of this code:

(1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to satisfy loan repayment assistance agreements pursuant to §18C-4A-1 *et seq.* of this code and

any renewals for which a recipient would be eligible pursuant to the prior enactment of §18C-4A-1 *et seq.* of this code for any student who is receiving such loan repayment assistance or fulfilling the requirements of an agreement on the effective date of this section;

(2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be eligible pursuant to the prior enactment of this article, for those students receiving such scholarship on the effective date of this section; and

(3) The terms, conditions, requirements, and agreements applicable to an Underwood-Smith teacher scholarship or loan repayment recipient prior to the effective date of this section shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

(i) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

§18C-4-2. Selection criteria and procedures for awarding scholarships.

~~(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter of this code. Vice Chancellor for Administration shall appoint a selection panel comprised of individuals representing higher education, public education, and the community at large to select the recipients of Underwood-Smith teacher scholarships.~~ Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test with a cumulative grade point average of at least 3.25 on a 4.0 scale;

~~(2) Have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia;~~

~~(3) Are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen-a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or~~

~~(4) Are graduate students at the master's degree level; who have graduated or are graduating in the top ten percent of their college graduating class.~~

(2) Have met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; and

(3) Agree to teach in a critical teacher shortage field at the elementary, middle or secondary level in a public school in the state pursuant to the provisions of §18C-4-3 of this code.

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD), or work permit, issued by the United States Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the Vice Chancellor for Administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These

criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. ~~However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.~~

~~(d)~~ (e) In developing the selection criteria and procedures to be used by the ~~Higher Education Student Financial Aid Advisory Board~~ selection panel, the Vice Chancellor for Administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other methods the Vice Chancellor for Administration may determine to be appropriate to gather the information.

~~(e)~~ (f) The Vice Chancellor for Administration shall make application forms for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are under-represented in those fields.

§18C-4-3. Scholarship agreement.

(a) Each recipient of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award shall enter into an agreement with the Vice Chancellor for Administration under which the recipient shall meet the following conditions:

(1) Provide the commission with evidence of compliance with §18C-4-4(a) of this code;

(2) Beginning within ~~a ten-year period~~ one year after completing the teacher education program for which the scholarship was awarded, ~~(A)~~ teach full-time in a critical teacher shortage

field at the elementary, middle or secondary level, under contract with a county board of education in a public education program in the state, for a period of not fewer than ~~two~~ five consecutive years for ~~each year~~ the four academic years, for which a scholarship was received; or

~~(B) Teach full-time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or~~

~~(C) Within the ten-year period, while seeking and unable to secure a full-time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:~~

~~(i) Teach full-time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or~~

~~(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen b of this code or in a post-secondary vocational education program in this state for a period of not fewer than two years for each year for which a scholarship was received; or~~

~~(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a scholarship was received. Any teaching time accrued during the required five-year period as a substitute teacher for a county board of education ~~under paragraph (A) or (B) of this subdivision~~ in a critical teacher shortage field at the elementary, middle or secondary level shall be credited pro rata in accordance with rules promulgated by the commission; or~~

(3) Repay all or part of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award received under this article plus interest and, if applicable, reasonable collection fees in accordance with ~~subsection (c), section four of this article, except as provided in subsection (d) of section four of this article~~ §18C-4-4 of this code.

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:

(1) A description of the conditions and procedures to be established under §18C-4-4 of this code; and

(2) A description of the appeals procedure required to be established under §18C-4-4 of this code.

(c) ~~Individuals who were~~ The scholarship terms, conditions, requirements, and agreements applicable to awarded an Underwood-Smith teacher scholarship recipient prior to the effective date of this section ~~may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997~~ shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.

(a) The recipient of an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a ~~course~~ program of study leading to teacher certification in a critical teacher shortage field at the ~~preschool~~ elementary, middle or secondary level; ~~in this state~~

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; ~~and~~

(4) Is maintaining a cumulative grade point average of at least 3.0 on a 4.0 scale; and

(5) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under §18C-4-3 of this code shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under §18C-4-3(a) of this code and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under §18C-4-3 of this code during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

~~(3) Seeking and unable to find full-time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;~~

~~(4)~~ Satisfying the provisions of ~~additional~~ any repayment exemptions that may be prescribed by the commission by rule; or

~~(5)~~ (4) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the Vice Chancellor for Administration may extend the time period for beginning or fulfilling the teaching obligation ~~to fifteen years~~ if extenuating circumstances exist.

§18C-4-5. Amount and duration of scholarship; relation to other assistance.

1 ~~(a) Subject to subsection (b) of this section, each recipient of An Underwood-~~
2 ~~Smith teacher scholarship is eligible to receive assistance of up to \$5,000 for each academic year~~
3 ~~of higher education~~ Teaching Scholars award shall be used in preparation for becoming a
4 ~~preschool~~ an elementary, middle or secondary teacher in a critical teacher shortage field in the
5 public schools of this state. ~~No individual may receive scholarship assistance for more than~~ Each
6 award shall be in the amount of \$10,000 annually, and is available for a maximum of four
7 academic years for the completion of a bachelor's degree. ~~and two additional academic years for~~
8 ~~completion of a master's degree~~

9 ~~(b) No individual shall~~ An individual may not receive a scholarship award under this article
10 which exceeds the cost of attendance at the institution the individual is attending. The cost of
11 attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances
12 for books, educational supplies, room and board and other expenses necessitated by individual
13 circumstances, in accordance with the program guidelines. For the purposes of establishing an
14 award amount, the ~~senior administrator~~ Vice Chancellor for Administration shall take into account
15 the amount of financial aid assistance the recipient has or will receive from all other sources. If
16 the amount of the Underwood-Smith ~~teacher scholarship assistance~~ Teaching Scholars award
17 and the amount of ~~assistance~~ scholarship and grant awards which the recipient has received from
18 all other sources exceed the cost of attendance, the institution's financial aid officer, in
19 consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner
20 to the best advantage of the scholar.

21 (c) The amendments to this article during the 2019 First Extraordinary Session of the
22 Legislature shall be effective for academic years beginning on or after July 1, 2019, and the
23 provisions of this article existing immediately prior to the 2019 first extraordinary session of the
24 Legislature remain in effect for academic years beginning prior to July 1, 2019.

**ARTICLE 4A. ~~UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE~~ TEACHER
EDUCATION LOAN REPAYMENT PROGRAM.**

§18C-4A-1. Selection criteria and procedures for loan assistance; effective date.

1 (a) The ~~Governor shall designate the~~ Higher Education Student Financial Aid Advisory
2 Board created by §18C-1-5 of this code ~~to~~ shall select recipients to receive ~~Underwood-Smith~~
3 ~~Teacher Loan Assistance~~ Teacher Education Loan Repayment Program awards. The advisory
4 board shall make decisions regarding loan repayment awards pursuant to §18C-4-1 of this code
5 and rules of the commission.

6 (b) To be eligible for a loan repayment award, ~~a teacher shall agree to teach shall agree~~
7 ~~to teach, or~~ an applicant shall currently be ~~teaching a subject area of critical need or~~ employed in
8 a public school in this state as a teacher in a critical teacher shortage field or as a school counselor
9 at the elementary, middle or secondary level in a school or geographic area of the state identified
10 as an area of critical need for such field. ~~at the preschool elementary, middle or secondary levels.~~
11 ~~The advisory board shall make decisions regarding loan assistance pursuant to section one,~~
12 ~~article four of this chapter~~

13 (c) In accordance with the rule promulgated pursuant to §18C-4-1 of this code, the Vice
14 Chancellor for Administration shall develop additional eligibility criteria and procedures for the
15 administration of the loan repayment program.

16 (d) The Vice Chancellor for Administration shall make available program application forms
17 to public and private schools in the state via the website of the commission and the State
18 Department of Education and in other locations convenient to potential applicants.

19 (e) The amendments to this article during the 2019 First Extraordinary Session of the
20 Legislature shall be effective for school years beginning on or after July 1, 2020, and the
21 provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the
22 Legislature remain in effect for school years beginning prior to July 1, 2020.

§18C-4A-2. Teacher Education Loan assistance Repayment agreement.

(a) Before receiving ~~an~~ a loan repayment award, each eligible ~~teacher~~ applicant shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with ~~subsection (b), section four, article four of this chapter~~ §18C-4-4 of this code;

(2) ~~Teach in a subject area of critical need or~~ Agree to be employed full time under contract with a county board of education for a period of two school years as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need full time under contract with a county board for a period of two school years for such field for each year for which a loan repayment assistance award is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule;

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) ~~Repay~~ Agree to repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan repayment agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by §18C-4-5 of this code.

§18C-4A-3. Amount and duration of loan ~~assistance~~ repayment awards; limits.

(a) Each award recipient is eligible to receive loan assistance ~~of up to~~ in an amount determined annually by the commission based upon available funds, but not less than \$3,000

annually in an amount determined annually by the commission based upon available funds, and
subject to limits set forth in subsection (b) of this section, if the recipient:

(1) ~~If the recipient has taught~~ Has been employed for a full school year under contract with
a county board of education in a subject area of critical need or as a teacher in a critical teacher
shortage field or as a school counselor at the elementary, middle or secondary level in a school
or geographic area of critical need; and

(2) ~~If the recipient otherwise~~ Otherwise has complied with the terms of the agreement and
with applicable provisions of this article and §18C-4-1 *et seq.* of this code, and any rules
promulgated pursuant thereto.

(b) The recipient is eligible for renewal of a loan repayment assistance award only during
periods when the recipient complies with other criteria and conditions established by rule, and is
under contract with a county board ~~to teach in a subject area of critical need or~~ of education as a
teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or
secondary level, in a school or geographic area of critical need in such field. ~~and complies with~~
~~other criteria and conditions established by rule, except that a teacher who is teaching under a~~
~~contract in a position that no longer meets the definition of critical need under rules established~~
~~in accordance with section one, article four of this chapter is eligible for renewal of loan assistance~~
~~until the teacher leaves his or her current position.~~

(c) ~~A recipient may not receive loan assistance pursuant to this article which accumulates~~
~~in excess of \$15,000.~~

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.ARTICLE

12. STATE INSURANCE

§29-12-5a. Liability insurance for county boards of education, their employees and
members, the county superintendent of schools, public charter schools electing to
obtain coverage, and for employees and officers of the state ~~Department of~~

Corrections Division of Corrections and Rehabilitation; written notice of coverage to insureds.

(a) In accordance with the provisions of this article, the State Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members and for all employees and officers of the State ~~Department of Corrections~~ Division of Corrections and Rehabilitation: *Provided, That* the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members, and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building or correctional institution if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, school board member, or employee or officer of the ~~Department of Corrections~~ Division of Corrections and Rehabilitation was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the county board of education, or Commissioner of Corrections, or in an official capacity as a county superintendent or as a school board member or as Commissioner of Corrections.

(c) Insurance coverage provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall be in an amount to be determined by the state Board of Risk and Insurance Management, but in no event less than ~~\$1 million~~ \$1,250,000 for each occurrence. In addition, each county board of education shall purchase, through

the Board of Risk and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost of this excess coverage will be paid by the respective county boards of education. Any insurance purchased under this section shall be obtained from a company licensed to do business in this state.

(d) The insurance policy provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well as a provision for the payment of the cost of attorney's fees in connection with any claim, demand, action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

(f) At least annually, beginning with the 2019-2020 school year, county boards shall provide written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of Risk and Insurance Management under this section. The written notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.

(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §18-5G-1 et seq. of this code and have included in their charter contract entered into pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board

of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section:

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers, supervisory or administrative staff members, and service personnel employed by a public charter school.

(h) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2019: *Provided, That* the amendment to subsection (c) of this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2020.

NOTE: The purpose of this bill is to .

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.